

THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.

**MINUTES OF THE REGULAR MEETING
OF THE FACULTY SENATE HELD ON
NOVEMBER 12, 2004, IN THE ALUMNI HOUSE**

- Present:** President Trachtenberg, Vice President Lehman, Secretary Linebaugh, and Parliamentarian Pagel; Deans Katz and Scott; Professors Briscoe, Castleberry, Griffith, Gupta, Helgert, Klarén, Marotta, Mueller, Packer, Paup, Robin, Robinson, Shen, Simon, Vergara, Wilmarth, and Wirtz
- Absent:** Deans Frawley, Futrell, Harding, Phillips, Tong, Trangsrud, and Whitaker; Professors Cordes, Delaney, Englander, Friedenthal, Gallo, Garriss, Lee, Shambaugh, Swiercz, and Watson

The meeting was called to order at 2:14 p.m. by Executive Vice President for Academic Affairs Donald R. Lehman. Vice President Lehman announced that Associate Vice President Craig W. Linebaugh would be serving as the Secretary of the Senate during the meeting. He added that the University's new Registrar, Ms. Elizabeth Amundson, would assume this role when she takes office in November. Vice President Lehman observed that Ms. Amundson was previously employed as an Associate Registrar at GW, but had departed to join John Hopkins University two years ago. Vice President Lehman added that he thought Ms. Amundson would be absolutely outstanding in this position.

Vice President Lehman also noted that Professor Harrington, of the School of Engineering and Applied Science (SEAS), was present as a representative of Dean Tong. As Professor Harrington has moved into the position of Associate Dean in the School, it was necessary to elect a Senator to replace him. Vice President Lehman then introduced Professor Lin Yin Shen as the new Senator from the SEAS.

APPROVAL OF THE MINUTES

The minutes of the September 10, 2004 meeting were approved as distributed.

CHANGE IN THE ORDER OF THE AGENDA

Professor Wilmarth moved that the order of the Senate's agenda be changed so that the Report on the School of Public Health and Health Services and the Report on the School of Medicine and Health Sciences could be considered as the next items of business. The motion was seconded, and passed.

REPORT ON THE SCHOOL OF PUBLIC HEALTH AND HEALTH SERVICES

Dean Ruth J. Katz introduced herself and told the Senate that she came to the University fourteen months ago to head the School of Public Health and Health Services (SPHHS). She said it had come to her attention recently that the Faculty Senate passed a Resolution (01/11) concerning bringing the School into compliance with Faculty Code

requirements with respect to the percentage of tenured or tenure-track faculty, so her report focused on this issue. Dean Katz distributed a chart summarizing this information for each of the seven departments in the School, and commented briefly on the data.

Between 2002 and 2004, the total number of faculty with regular appointments increased from 37 to 47; expressed as a percentage of total faculty, the percentage of tenured and tenure-track faculty rose from 34% to 41%. Five of the seven departments in SPHHS are currently headed by interim or acting chairs, all of whom Dean Katz said she expected would be replaced. She added that she has been very reluctant to make changes in the faculty, as it is her belief that the new chairs should have a major role in recruiting new faculty, and in determining what happens to current faculty.

Progress has been made, she said, but the School is not as far along as it would like to be toward the requirement that tenured or tenure-track faculty constitute 75% of the School's full-time faculty. She concluded that she agreed with former Dean Southby who, at the time Resolution 01/11 was adopted, observed that it would be difficult for SPHHS to reach the goal by 2007. She concluded by saying that the School would work as hard as it could to reach the goal, and she was confident that ultimately the School would be successful.

Professor Griffith asked when Dean Katz thought the School might be brought into compliance with the Code, and Dean Katz responded that she thought such an estimate would be premature before the new department chairs are in place. Professor Griffith then asked about the status of department chair searches, and Dean Katz responded that Epidemiology and Biostatistics is well on its way to finding a chair as the search committee has identified two candidates. Global Health is finishing up its initial round of interviews. The search in the Health Services Management and Leadership Department continues, since a candidate who was offered the position declined it. In Exercise Science, the search committee has announced it is ready to advertise for the open position; and in Prevention and Community Health, a search committee has yet to be established. Professor Griffith asked if the most optimistic scenario would be filling all of the open positions by July, 2006, and Dean Katz said she certainly hoped so.

Professor Mueller asked if the School intended to convert contract faculty lines into tenure-accruing lines, or if it was planning to petition the University to grant it more tenure line positions. Dean Katz said that decision has not yet been made. She added that she thought that a major concern was that contract faculty might not stay on from year to year as tenured and tenure-track faculty do, but she noted that the School has lost only four faculty members in the past two years. While the Senate had taken notice in 2002 of the low rating given by students concerning their experience at SPHHS, the percentage of students expressing satisfaction moved from 67% in 2002, to 76% in 2003. In 2004, with a graduating class of 133 students, 131 responses were received, and the overall satisfaction rate increased to 81%.

Professor Mueller drew a comparison between his School [the Graduate School of Education and Human Development (GSEHD)] and the SPHHS. GSEHD is struggling with similar issues, he added, as they do not wish to lose long term contract faculty, but at the same time, the School needs to bring itself into compliance with the Faculty Code.

Professor Wilmarth asked Dean Katz if she anticipated that all of the new department chairs would be either tenured or tenure-track faculty members. Dean Katz said this was her expectation, although this has been left to negotiations with each candidate. She added that she had not interviewed anyone for these positions whom she would consider ineligible for tenure.

Professor Wilmarth also asked if, when departmental search committees have narrowed the list of candidates down to two, departmental faculty would vote on each of the finalists. Dean Katz responded that they would not. Professor Wilmarth pointed out that the Faculty Code provides for faculty participation in such decisions, either by means of a vote by departmental faculty as a whole, or by vote of an elected committee. Dean Katz assured Professor Wilmarth that, to date, there has been extensive faculty participation in the department chair search processes. (The Chart is attached.)

REPORT ON THE SCHOOL OF MEDICINE AND HEALTH SCIENCES

Dean James L. Scott introduced himself and began by saying that he has been a faculty member at GW for twenty years, before being selected as Interim Dean, and then Dean, of the School of Medicine and Health Sciences (SMHS). By way of background he outlined a short history of the Medical School, from its opening nearly 175 years ago to the present.

GW's SMHS is the eleventh oldest medical school in the United States. For most of the twentieth century, the School was housed in a small building located near 12th and H Streets, NW. In 1948, the old GW Hospital was built, giving the School its Foggy Bottom anchor, and in 1972 the School moved to a newly constructed Ross Hall, where it remains today. Ross Hall houses a medical center library for the SPHHS and the SMHS that Dean Scott characterized as a good and very adequate medical library; four large lecture halls, and twenty conference rooms for small group teaching throughout the building. The remainder of the building is devoted to research space.

During the 1970's, the SMHS began to develop Health Sciences programs, which include a Physician Assistant's Program ranked this year as third in the nation, a thirty year-old Nurse Practitioner Program conducted jointly with George Mason University, and Physical Therapy and Sonography Programs. Several hundred students participate in distance education programs, particularly in clinical lab sciences; for example, most of the laboratory workers employed in military hospitals around the world complete their training through online collaborations at the GW Medical Center.

During the 1980's, GW expanded the faculty practice building, presently at 22nd Street between I Street and Pennsylvania Avenue, across the street from the old hospital. At about the same time, GW realized that it needed a new hospital, as the old hospital was then 40 years old. Given the many millions of dollars required to construct a new building, and the realization that the University was not expert in managing a hospital, a search was launched to find a partner to build and manage the new facility. Over ten years later, the University partnered with United Health Services, and in 2002 the new hospital was constructed.

GW Hospital, which is the only new hospital in the District of Columbia, now serves as the anchor for the Medical Center on the northwest corner of the Foggy Bottom campus,

across from Ross Hall. While the new Hospital was under construction, the University also decided to close the GW Health Plan, and separately incorporate its physician practice plan (the MFA), a move which has become the norm at other universities, rather than the exception. Dean Scott then reviewed in some detail the financial considerations that led GW to make these decisions.

Dean Scott reported that the Medical Center now enrolls 640 medical students, 800 health science students, and 92 Ph.D. students in five separate programs, all in a building originally designed to accommodate 400 medical students. There are also 380 residents in virtually every specialty available to medical students. There are over 70 full-time basic science faculty, and over 200 clinical faculty.

In terms of grants, in FY 2000, the Medical Center received approximately \$23.6 million, with about \$4.5 million in indirect cost recovery. For this year, \$45.3 million and \$9.6 million, respectively, has been budgeted, or roughly a doubling of activity in this area. The Medical Center is highly regarded nationally and/or internationally for research in proteomic genomics, microbiology (the hookworm vaccine program), HIV, the regenerative possibilities of stem cells, and emergency preparedness.

Educationally, the SMHS has been known for a long time as a medical school which trains very good physicians. The entire 6th floor of the new hospital was retained by GW as educational space, which houses a state-of-the-art simulation center where students learn through virtual technology about operations, resuscitations, and anesthesia before they ever see a patient. There is also a standardized patient area, where students examine actors playing the part of patients. Last year, both the University of Maryland and Georgetown University sent their students to GW's facility for training and testing, as a particular part of the licensing examination now requires these skills.

Probably the biggest innovation in the SMHS this year is the investment of a little over \$1 million to renovate one of the medical classrooms. This classroom provides seating for 190 students who study courses such as microscopic anatomy and pathology using a dedicated server and digital technology, which have replaced microscopes in the curriculum.

Dean Scott then outlined three challenges of concern to the SMHS. The first is that tuition this year, at nearly \$40,000, will be probably the second highest in the country. Combined with the fact that the medical school is not heavily endowed and does not have a lot of scholarship money, this is troubling. Students who do not receive aid often incur \$200,000 or more in debt during the course of their studies, and Dean Scott said he thought this would tend to discourage students from going into family practice or pediatrics, and encourage them to pursue higher-paying specialties, such as neurosurgery or ophthalmology. Dean Scott expressed his concern that this would negatively impact the SMHS mission to produce physicians in a variety of specialties.

The second challenge is the School's ability to recruit and retain quality faculty, given the competing pressures they face, whether to obtain research funding or to do more clinical work. The University needs to find ways, he said, to support faculty more in their teaching mission and set up incentives for doctors to do more clinical research.

Thirdly, the fate of Square 54, or the old GW hospital site, is of great interest to the SMHS, particularly if educational space can be obtained there. This would allow new quarters for the SPHHS and SMHS; Ross Hall could then be devoted to research, for which it was really designed. This added research space could be used to conduct medical, biomedical, and scientific research in collaboration with chemistry, biology, engineering, and other departments, as well as serving as a site for vaccine or cancer trials. Dean Scott concluded by saying that he believes GW has a unique opportunity to develop a medical, biomedical, and scientific campus at the old hospital site that will certainly define the SMHS for a long time to come.

Professor Wirtz inquired about the number of Ph.D. students in the School's five programs, and Dean Scott responded that there were 92. Professor Wirtz also asked about the manner in which these programs were selected. Dean Scott said that he was not on the administrative staff then, but approximately five or six years ago, the programs were selected largely based upon strength. For example, at that time, GW was very strong in immunology, and had formed a partnership with the Holland Labs of the Red Cross. SMHS was able to bring immunology faculty in to teach, and students were able to obtain research opportunities, as these faculty were all very well funded investigators. Because of the changing nature of medical studies, Dean Scott said that the SMHS faculty has proposed that the number of programs in the School be reduced to three, or that a single unified degree in biomedical sciences be offered, with specialty tracks offered within this structure.

Professor Wirtz asked how faculty were qualified to participate in a particular Ph.D. program, and Dean Scott responded that this was dependent upon a faculty member obtaining National Institutes of Health or major grant funding. Professor Griffith followed up on this question by asking if this meant that a graduate student had to be identified with a faculty member who had obtained research funding and would support the student in his or her own research. Dean Scott said that it is really the total number of faculty with research funding in a particular program that determines the number of students admitted, for example, the Medical Center would not admit fifteen students in an area where there are only five funded investigators.

RESOLUTIONS

A RESOLUTION TO ENDORSE REINSTATEMENT OF THE INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS, AS ORIGINALLY ADOPTED BY THE FACULTY SENATE IN RESOLUTION 98/5, WITH CERTAIN FURTHER AMENDMENTS (04/3)

On behalf of the Faculty Senate Executive Committee, Professor Arthur E. Wilmarth, Jr., Chair, introduced Resolution 04/3. He then briefly reviewed the history of the Senate's deliberations on a policy governing sexual harassment complaints over the past four years. While this history is set forth in Resolution 04/3, he said he thought it would be useful to review several key points.

In December of 1998, the Faculty Senate adopted Resolution 98/5, which endorsed the promulgation of an Interim Policy, and this Resolution also recommended the appointment of an ad hoc Committee that was broadly representative of the University

community for the purpose of facilitating agreement on a final policy to replace the Interim Policy.

In May of 2000, the Senate reviewed the ad hoc Committee's report and made a number of amendments to that Committee's recommended policy. The Senate-endorsed draft was transmitted to the University Administration, which referred the Senate's draft to outside legal counsel. The Administration's outside legal counsel produced a revised draft, which was the subject of another Senate Resolution in April 2001 (00/6). Senate Resolution 00/6 rejected the outside counsel's revised draft and requested that the Administration make yet another effort to reach consensus with the Faculty Senate on a final policy. Between April 2001, and June, 2004, nothing further was done to develop such a final policy.

In June, 2004, a query from two faculty members was referred to the Executive Committee. According to those faculty members, a complainant felt that s/he had not received notice of the outcome of a particular sexual harassment investigation. Without inquiring about the particulars of the case, the Executive Committee wrote to the University's General Counsel's Office and inquired about the apparent lack of notice, and the procedures being followed in the case. The Executive Committee was aware that, under the Interim Policy endorsed in Resolution 98/5, each party involved in an informal or formal sexual harassment complaint was entitled to receive a notice regarding the outcome of the case. The response from the University's General Counsel's office indicated that notice had finally been given to the complainant. The response also stated that the Administration was following the procedures set forth in an enclosed document entitled "Interim Policy and Procedures Governing Harassment Complaints" with the further notation "Revised 4/14/99." The Executive Committee reviewed the "Revised 4/14/99" document and determined that it was not the Interim Policy which had been endorsed by the Faculty Senate in Resolution 98/5. Professor Wilmarth referred to twelve significant discrepancies between the Interim Policy endorsed in Resolution 98/5 and the Interim Policy as "Revised 4/19/99" and posted on the University General Counsel's website. He noted that those twelve discrepancies are summarized in Exhibit B, appended to Resolution 04/3 and distributed with the Senate's agenda.

Professor Wilmarth explained that the Faculty Senate and the Administration had enjoyed a long tradition of shared governance, under which both groups work collaboratively in establishing policies affecting the faculty and the University's academic programs. While the Board of Trustees certainly exercises the ultimate responsibility for determining University policy, the Senate has been consistently involved in discussing and giving its recommendations on documents that concern the faculty and the University's academic programs. The Executive Committee certainly understood that there were significant disagreements over certain issues in the Interim Sexual Harassment Policy endorsed in Resolution 98/5, but it was greatly concerned that significant changes had been made in the Interim Policy without any notice to the Senate. In response to expressions of concern and disappointment by the Executive Committee to the Administration about this matter, Professor Wilmarth said that the Administration has offered to reinstate the Senate-approved Interim Policy referenced in Resolution 98/5, with certain changes, which he then outlined.

Based on the understanding that the newly revised Interim Policy would take effect as of the date of the November 12th Senate meeting, along with the assurance that there are

no outstanding cases pending under the Interim Policy as "Revised 4/19/99," the Executive Committee agreed that the Senate and the administration would use their best efforts in good faith to agree upon a final Sexual Harassment Policy and Procedures document prior to the end of this session of the Faculty Senate in April, 2004. In order to accomplish this goal, it was agreed that a consensus document drafted by a joint administration-faculty task force would, under Senate rules, be referred to the Senate Committee on Professional Ethics and Academic Freedom and then be referred to the Senate along with the PEAFC Committee's views and recommendations.

Professor Robinson asked about the number of cases that have been heard under the "Revised 4/19/99 Policy" and Professor Wilmarth said that General Counsel Dennis Blumer had advised him that to date, no formal complaints have been considered, and none are pending.

Professor Griffith said he saluted the work of the Executive Committee on this matter, and added that he felt the result is probably the best that can be achieved under the circumstances. He noted that he had drafted the amendment to Resolution 00/6 which requested that the administration move to redraft the Sexual Harassment Policy following the Senate's rejection of the outside counsel's revised draft in April, 2001. Following that Senate meeting, Professor Griffith said that he participated in a University Roundtable meeting convened by Vice President Lehman which attempted to settle upon yet another consensus document, and he felt after that meeting, that the group was very close to agreement on a new Policy. When no new Policy was forthcoming, Professor Griffith said that he wrote to the President asking when the Senate would have an opportunity to revisit the issue and approve a permanent policy. He reported that he had also asked Vice President Lehman several times about when discussion on the policy might resume. He said he thought it disingenuous that neither the President nor the Vice President had ever mentioned the 4/19/99 revision. Professor Griffith then said that, frankly, he felt deceived that he was never told that the Senate-approved Interim Policy had been changed on 4/19/99, and that the 4/19/99 revision had been the official University policy since that time.

For the record, Vice President Lehman noted that the policy redrafted in 2001 following the Roundtable meeting was shared with a number of people, who advised that it be tabled for the time being, and this was done. Vice President Lehman added that he had furnished the text of these amendments to the Executive Committee at its recent meeting in October.

Professor Robinson said she was very dismayed at this turn of affairs, and she thought the situation regrettable as she thought the Senate had worked very hard to achieve shared governance. With that said, she added that she thought the Executive Committee had done a most commendable job in resolving the matter with reinstatement of the Senate-approved Interim Policy (with appropriate changes agreed upon by the Senate). She added that she thought the result was one that the Senate could work with as everyone agrees with the need to settle upon a workable permanent policy. And thus, Professor Robinson endorsed Resolution 04/3.

President Trachtenberg said that he thought "deception and disingenuousness" are too robust a description of what has transpired with the Interim Policy, and those words

should never be used when incompetence was the more plausible allegation. The President said he felt there was no deception involved and that he didn't know how the Senate-approved Interim Policy had disappeared, and he suspected that Vice President Lehman did not either.

Professor Wirtz said if what the President had just said had been offered when this matter first came to the attention of the Executive Committee, it could have been settled amicably, as at the time the Executive Committee thought there was a possibility that the Policy had simply "slipped between the cracks." Professor Wirtz thought it unfortunate that a nasty battle had ensued following that suggestion, and the solution presented to the Senate was arrived at with great difficulty. As a point of clarification, Vice President Lehman said he had been present at the Executive Committee meeting when the "Revised 4/19/99" Interim Policy had been brought to his attention, and he was as astounded as anyone there. At the next Executive Committee meeting, he said that he had explained in great detail what steps had been taken to change the Senate-approved Interim Policy. He also explained that, as he understood it at that time, the University General Counsel's Office felt these changes were necessary because the Policy would cover the entire University community, not just faculty, and it was this viewpoint that caused Counsel's Office to make the changes to the Senate-approved Interim Policy. Vice President Lehman also observed that in both Resolution 04/3 and the appended revised Interim Policy, the name of the Equal Employment Activities Office should be changed to read "Equal Employment Opportunity." Professor Wilmarth accepted this change as a friendly amendment.

Professor Wilmarth also commented for the record that since Vice President and General Counsel Dennis Blumer was not present at the meeting it should be noted that he and Professor Wilmarth had several very good discussions about the subject matter of Resolution 04/3, and, in Professor Wilmarth's view, Vice President Blumer played a very positive role in helping to find a solution to the problem. Thus, despite any reservations that Professor Wilmarth might have had about how the "Revised 4/19/99" document came into being, or was posted on the website, he was very grateful to Vice President Blumer for the role that he played in helping to craft the mutual agreement about the Sexual Harassment Policy reflected in Resolution 04/3.

The question was called, a vote was taken, and Resolution 04/3 was adopted unanimously. (The Resolution and revised Interim Policy are attached.)

INTRODUCTION OF RESOLUTIONS

Professor Griffith introduced a Resolution and moved that the Senate entertain this Resolution not on the day's agenda under Senate rules permitting such Resolutions to be considered following a two-thirds vote by those present at the meeting. He then distributed the Resolution and outlined why immediate Senate action on the Resolution would be advisable.

By way of background, Professor Griffith explained that a number of department chairs were sent a notice the past week advising them that class schedules for the Spring 2005 semester, which were submitted last July, were in part unacceptable. A list of classes declared to be "homeless" was appended, and chairs were directed to reschedule these classes or to cancel them, on very short notice. Moreover, opportunities for rescheduling

were not spelled out very well, but the options offered amounted to scheduling classes at 8 a.m., or at the Mount Vernon campus, or scheduling graduate classes at 8 p.m., or on Saturdays.

After saying he had seldom seen the faculty so enraged on any subject, Professor Griffith briefly summarized provisions of the Resolution. He then moved the following Resolution: A RESOLUTION EXPRESSING CONCERN ABOUT AND REQUESTING JOINT SENATE AND ADMINISTRATION REVIEW OF THE RECENT CLASSROOM SHORTAGE. The motion was seconded, and was approved unanimously. Professor Griffith then discussed Resolution 04/4 briefly.

Professor Robinson proposed an amendment to the First Resolving Clause of Resolution 04/4, adding the words "no later than Fall, 2005 and" following the word "situation." Professor Griffith agreed to accept this as a friendly amendment.

Professor Gupta asked why this problem had suddenly surfaced for the spring semester when the problem had not arisen in the fall. Associate Vice President Linebaugh responded at some length to this question after saying that, having served as a department chair for eleven years, he thought he understood the frustration many of the department chairs were experiencing. He had been surprised and greatly dismayed to receive an obscene personal e-mail attack from a faculty member about the problem. Professor Gupta was accurate, he said, in noting that there were fewer courses scheduled for the spring semester than in the fall; however, schedules submitted by departments in July were processed through the appropriate Schools, and did not reach the central Scheduling Office until September. The schedules submitted for the Spring 2005 semester were simply overloaded in selected timebands. In addition, courses from some departments that should have been pre-assigned to departmental labs or studios were included in the scheduling of classrooms in the general inventory. In addition to these difficulties, a software problem occurred when a vendor supplied the wrong license key to the University, which prevented initiating the scheduling software run. These developments, coupled with the departure of a scheduling office employee in late October, all combined to worsen the situation.

Associate Vice President Linebaugh said that he continues to believe that the fact that all of the fall classes have been scheduled, and the fact that there were fewer spring classes, speaks not to a shortage of classrooms, but rather to an unwillingness on the part of departments to disperse classes across timebands, which would permit optimal use of the existing classroom inventory.

Professor Robin noted that he teaches in the German and Slavic Languages and Literatures department, and he pointed out that the University hires quite a number of part-time faculty. Informing faculty who will only be paid something like \$2,500 per course that they will be expected to teach four days a week at 8 a.m. is, to put it mildly, a real hindrance in finding part-timers to fill positions.

Discussion about various aspects of classroom and final examination scheduling difficulties followed by Professors Griffith, Mueller, Wirtz, and Associate Vice President Linebaugh. Professor Packer asked if this was the nadir of the classroom supply cycle, or if the University would have even fewer classrooms next year. Associate Vice President Linebaugh told the Senate that if construction in Fungler and Duques Hall (the new

building for the School of Business) stays on schedule, 21 additional classrooms would be added to the inventory in Spring, 2006. However, once Fungler and Duques Halls were complete, renovations in the Hall of Government and Monroe Hall would cause 30 classrooms to go offline, and following renovations to those buildings, fewer than 30 classrooms may remain. Professor Mueller asked if temporary classrooms could be set up on the old hospital site and the President said that this was unlikely.

The President then briefly described recent developments in planning for the use of the old hospital site and efforts underway by the University to request higher density from the D.C. Zoning authorities. Discussion followed between the President, Professor Griffith, and Professor Packer, who noted Dean Scott's eloquent plea for academic space and forward movement in biomedical sciences at the site. The President invited the Senate to share its thinking with the Board of Trustees on this issue. In response to a question on how best to do this, the President said that he thought that some Senate members might request a luncheon or a meeting with Trustee Russell Ramsey, who chairs the Committee concerned with use of the hospital site. The President then expressed his appreciation for the dedicated effort and countless hours expended by Trustee Ramsey in this effort. It is clear that the Trustees wish to do the very best they can for the University with this opportunity, and Mr. Ramsey's contributions have been invaluable in the screening and selection of potential partners, which now number two. The President said this process has been handled in an exemplary fashion; no small task, since many of those expressing interest in partnering to develop the site have close ties to the University and great care must be taken in these negotiations.

The question was called, a vote was taken, and Resolution 04/4 passed by unanimous vote. (The Resolution is attached.)

REPORT ON PERCENTAGES OF TENURED AND TENURE-TRACK FACULTY AMONG THE REGULAR, ACTIVE-STATUS FACULTY IN EACH SCHOOL

Vice President Lehman distributed a summary of the number of non-tenure-track and tenure-track faculty members in each School of the University, and briefly summarized the information contained in this Report. The data reflect the number of regular, active-status faculty as of Fall, 2004 and does not include visiting, research, or University professors.

The first chart summarizes the number of regular, active-status faculty from 1998-2004 in all of the Schools excluding the Law (GWLS), Medical (SMHS), and Public Health and Health Services (SPHHS) Schools, and the College of Professional Studies (CPS). The total number of active-status faculty over this seven year period in these schools increased from 647 to 740, or a 14.4% increase. Over the period 1999-2004, the increase amounted to 11.4%.

The second chart sets forth the number of non-tenure-track, and tenure-track/tenured faculty in each of the five Schools detailed in the first chart. In Columbian College of Arts and Sciences, approximately 25.7% of the regular, active-status faculty are classified as contract faculty; in the Elliott School of International Affairs, 15.9%; in the School of Business, 18%, in the School of Engineering and Applied Science, 8.3%, and in the Graduate School of Education and Human Development, 41.4%. Overall, across all of these

five schools, the total number of contract faculty is approximate 23.5% of the total. Since 1999, the total number of contract faculty increased by 47, and the total number of tenure-track/tenured faculty increased by 29. Vice President Lehman observed that since he assumed his post in 1996, the number of tenure-track/tenured faculty positions has increased by more than 30 positions. He added that the Board of Trustees enforces a cap on the number of tenure lines at the University.

The third and fourth charts set forth the statistics for regular, active-status faculty in the remaining Schools of the University. The CPS by design primarily employs contract faculty, and there are only three contract faculty in this School. In the other three schools, 18 tenure-track/tenured faculty positions have been added.

Professor Simon questioned the figures set forth for the SMHS, pointing out that there are more than 84 regular, active-status faculty members, as there are at least 30 clinicians on the Medical School faculty in addition to 77 faculty in the basic sciences. He said he thought the figures given do not reflect the overall picture in the SMHS. A short discussion followed on how positions are accounted for in the Medical School, since the numbers given do not reflect the large number (over 350) of full-time faculty at affiliated institutions. The count for the SMHS is further complicated by the fact that health care sciences has a large number (32) of non-tenure-track positions. Vice President Lehman noted that he had already discerned a slight discrepancy between his statistics on the SPHHS faculty and those given during Dean Katz's report, and he said he would look into these discrepancies and report back to the Senate on them.

Professor Wilmarth inquired about the increase in 2000-01 from 75 to 98 contract faculty members in CCAS, and Vice President Lehman said this occurred because the University admitted a large class of 2,550 students and these faculty positions have been retained to teach this group through their four year programs. In addition, given the large freshman class enrollment this year, the University will have to retain these contract faculty positions for some time. (The Report is attached.)

UPDATE ON UNIONIZATION EFFORTS

Vice President Lehman commented briefly on results of unionization efforts by part-time faculty at the University. Of ballots counted thus far, 328 individuals voted in favor of the union, and 316 were opposed. There were 50 challenged ballots which remain sealed as they are in dispute. It is expected that the National Labor Relations Board will review the results, and it will probably be two or three weeks before the status of these disputed ballots is resolved.

GENERAL BUSINESS

I. NOMINEES FOR ELECTION OF MEMBERS OF FACULTY SENATE STANDING COMMITTEES

Professor Wilmarth moved the election of the following faculty members to Senate Standing Committees: Appointment, Salary, and Promotion Policies: Professor Eugene

Abravanel, Psychology; Fiscal Planning and Budgeting: Professor Frederick W. Lindahl, Accountancy. The nominations were approved unanimously.

II. REPORT OF THE EXECUTIVE COMMITTEE

Professor Wilmarth presented the Report of the Executive Committee, which is enclosed.

BRIEF STATEMENTS (AND QUESTIONS)

There were no brief statements or questions.

ADJOURNMENT

There being no further business before the Senate, and upon motion made and seconded, the meeting was adjourned at 4:20 p.m.

Craig W. Linebaugh

Craig W. Linebaugh
Secretary

DATA

According to the Medical Center Office of Faculty Affairs (November 11, 2004) the Regular Faculty Profile for the School of Public Health and Health Services demonstrates an improved position from the time of the adoption of Resolution 01/11 (04/12/02).

Department	Tenured 2002	Tenured 2004	Tenure track 2002	Tenure track 2004	Total faculty with regular appointments 2002	Total faculty with regular appointments 2004	Percentage of tenured faculty or tenure track 2002	Percentage of tenured faculty or tenure track 2004
Epidemiology and Biostatistics	3	3	0	0	8	9	37%	33%
Environmental and Occupational Health	1	1	0	0	3	4	25%	33%
Exercise Science	Not a Department in 2002	1	Not a Department in 2002	0	Not a Department in 2002	6	Not a Department in 2002	17%
Global Health	0	1	0	1	3	3	0%	66%
Health Services Management and Leadership	5	2	0	1	10	8	50%	50%
Health Policy	Not a Department in 2002	3	Not a Department in 2002	0	Not a Department in 2002	10	Not a Department in 2002	33%
Prevention and Community Health	4	4	0	2	13	9	30%	66%
TOTAL	13	15	0	4	37	47	34%	41%

**A RESOLUTION TO ENDORSE REINSTATEMENT OF THE INTERIM
POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT
COMPLAINTS, AS ORIGINALLY ADOPTED BY THE FACULTY SENATE IN
RESOLUTION 98/5, WITH CERTAIN FURTHER AMENDMENTS (04/3)**

WHEREAS, in Resolution 98/5, adopted on December 11, 1998, the Faculty Senate (i) endorsed the Interim Policy and Procedures Governing Sexual Harassment Complaints, as amended (the "Interim Policy and Procedures endorsed in Resolution 98/5"), and recommended the promulgation of that document to the University community; (ii) recommended that an ad hoc committee be jointly appointed by the Vice President for Academic Affairs and the Chair of the Faculty Senate Executive Committee; and (iii) recommended that the ad hoc committee review the Interim Policy and Procedures as endorsed in Resolution 98/5 and report its recommendations to the Faculty Senate with regard to any proposed amendments to that document; and

WHEREAS, in Resolution 99/6, adopted on May 5, 2000, the Faculty Senate reviewed and endorsed, with a number of amendments, the ad hoc committee's proposed Policy and Procedures Governing Sexual Harassment Complaints ("Resolution 99/6 Document"), as a proposed replacement for the Interim Policy and Procedures endorsed in Resolution 98/5; and

WHEREAS, the University Administration referred the Resolution 99/6 Document to outside counsel and, on January 4, 2001, the Administration issued a "Revised Draft," which significantly changed the Resolution 99/6 Document and incorporated a number of provisions that the Faculty Senate had specifically rejected in adopting Resolution 99/6; and

WHEREAS, in Resolution 00/6, adopted on April 27, 2001, the Faculty Senate withheld its endorsement of the "Revised Draft" and "urgently request[ed] the University President to suspend acceptance of the Revised Draft and direct the preparation, in consultation with the Faculty Senate, of a re-draft of the Sexual Harassment Policies and Procedures with the goal of more fairly balancing the procedural rights of the respondents with the creation of an appropriate process that does not discourage complainants"; and

WHEREAS, in a memorandum dated June 27, 2001, from the President to the Chair of the Executive Committee of the Faculty Senate, the Administration stated that its response to Resolution 00/6 was "[i]n process", but no further response to Resolution 00/6 has been presented to the Faculty Senate; and

WHEREAS, during the period from December 11, 1998, to June 25, 2004, members of the Faculty Senate Executive Committee and other members of the Faculty Senate understood that the Interim Policy and Procedures endorsed in Resolution 98/5 remained in force as the document governing sexual harassment complaints in which faculty members were named as parties; and

WHEREAS, on June 25, 2004, in response to an inquiry from the Chair of the Executive Committee regarding notification procedures followed in a recent sexual harassment investigation, the Administration provided the Executive Committee with a document designated as "Interim Policy and Procedures Governing Sexual Harassment Complaints (Revised 4/14/99)" (the "4/14/99 Revision"), which the Executive Committee learned was posted on the University's website along with other University policies; and

WHEREAS, the Faculty Senate was not consulted when the Administration prepared the 4/14/99 Revision, and, prior to June 25, 2004, the Faculty Senate was not notified that the Administration had adopted the 4/14/99 Revision and had posted that document on the website for University policies; and

WHEREAS, based on its review of the 4/14/99 Revision, the Executive Committee determined that the 4/14/99 Revision made twelve significant changes to the Interim Policy and Procedures endorsed in Resolution 98/5, with many of those changes affecting academic freedom and the due process rights of complainants and respondents in sexual harassment proceedings; and

WHEREAS, (i) Exhibit A attached hereto sets forth the Interim Policy and Procedures endorsed in Resolution 98/5, as marked to show all of the changes made in the 4/14/99 Revision; and (ii) Exhibit B attached hereto summarizes the twelve most significant changes that were made in the 4/14/99 Revision;

WHEREAS, Article IX of the Faculty Code recognizes fundamental principles of shared governance that promote cooperation and consensus in decision making among the regular, active-status faculty, the officers of the University Administration, and the Board of Trustees; and, in particular, Article IX.B. states that "[t]he faculty cannot perform an effective and responsible role in University decision making without the cooperation of the administrative officers of the University. . . . Faculty bodies charged with responsibilities for particular policy and planning areas are entitled, to the extent feasible, to be informed sufficiently in advance of important decisions within their areas of competence to be able to provide their advice or recommendations to the appropriate University officials"; and

WHEREAS, in recognition of the foregoing principles of shared governance, Article I, Section 2 of the Faculty Organization Plan provides that "the Faculty Senate . . . shall be a representative body acting for the Faculty as a whole in legislative and advisory capacities"; accordingly, the Administration has followed a long-established practice of referring to the Faculty Senate, for its advice and recommendations, proposed University policies with a significant potential impact on the faculty before such policies are adopted or implemented by either the Administration or the Board of Trustees; and

WHEREAS, the Faculty Senate Executive Committee has expressed to the Administration its firm belief and great concern that the Administration's adoption and implementation of the 4/14/99 Revision, without prior consultation with or notice to the

Faculty Senate, represented a clear departure from the principles, practice, and tradition of shared governance at The George Washington University; and

WHEREAS, in response to the expressions of the Faculty Senate Executive Committee, the Administration has agreed to reinstate the Interim Policy and Procedures endorsed in Resolution 98/5, with certain amendments, in accordance with the following understandings:

- (1) In adopting this Resolution 04/3, the Faculty Senate will endorse the following amendments to the Interim Policy and Procedures endorsed in Resolution 98/5: (a) the Code of Student Conduct will govern formal complaints in which both parties are students or the respondent is a student, (b) the Manual of Personnel Policies will govern formal complaints in which both parties are staff members, (c) persons who have concerns or potential complaints about inappropriate sexual behavior may contact, in addition to the Sexual Harassment Coordinator, the Director of Equal Employment ~~Activities~~ Opportunity, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, but each of those persons will refer all such matters to the Coordinator, and (d) a formal complaint hearing will be closed to the public if either party so requests [new provision] or if the formal complaint panel so determines [existing Senate provision]; and
- (2) The Interim Policy and Procedures endorsed by Resolution 98/5 and amended by Resolution 04/3 will take effect upon the Faculty Senate's adoption of this Resolution and will continue in effect during the remainder of the Faculty Senate's 2004-05 term; and
- (3) The Faculty Senate and the Administration will use their best efforts to agree on a final policy and procedures governing sexual harassment before the expiration of the Faculty Senate's 2004-05 term; to that end, this Resolution will authorize the creation of a joint task force to prepare a consensus document that will be reported to the Faculty Senate's Committee on Professional Ethics and Academic Freedom ("PEAF Committee") for its expeditious review and, following such review, the consensus document will be referred to the Faculty Senate with the PEAF Committee's recommendations; and
- (4) In negotiating a consensus document, representatives of the Administration will not be bound by the Interim Policy and Procedures endorsed in Resolution 98/5 and amended by Resolution 04/3, it being understood that the Administration has agreed to reinstate such Policy and Procedures in order to restore a spirit of comity and trust with the Faculty Senate, and in furtherance of the principles of shared governance; and

WHEREAS, attached as Exhibit C hereto is the Interim Policy and Procedures Governing Sexual Harassment Complaints as endorsed in Resolution 98/5, as marked to show the amendments needed to satisfy the Administration's requests set forth in paragraph (1) of the foregoing recital and to make a small number of further technical and clarifying changes; **NOW THEREFORE**

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

- (1) That the Faculty Senate endorses the "Interim Policy and Procedures Governing Sexual Harassment Complaints" in the form attached hereto as Exhibit C, and recommends that such policy and procedures take effect in the University community as of the date of the Faculty Senate's adoption of this Resolution and continue in effect during the remainder of the Faculty Senate's 2004-05 term; and
- (2) That the "Interim Policy and Procedures Governing Sexual Harassment Complaints," as amended and endorsed by this Resolution, be referred to a joint task force appointed by the Executive Vice President for Academic Affairs and the Chair of the Executive Committee of the Faculty Senate for the purpose of drafting a consensus final policy and procedures governing sexual harassment complaints, which will be reported to the Committee on Professional Ethics and Academic Freedom of the Faculty Senate ("PEAF Committee") for its expeditious review and, following such review, will be referred to the Faculty Senate with the PEAF Committee's recommendations; and
- (3) That the joint task force, the PEAF Committee and the Faculty Senate will use their best efforts to recommend, prior to the expiration of the Faculty Senate's 2004-05 term, a final policy and procedures governing sexual harassment for approval and implementation by the University Administration.

Executive Committee of the Faculty Senate
November 3, 2004

Adopted, as amended, November 12, 2004

Adopted, as amended, pursuant to Faculty Senate Resolution 04/3,
(also adopted, as amended) on November 12, 2004

INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS

Introduction

The George Washington University reaffirms its commitment to maintaining a positive climate for study and work in which individuals are judged solely on relevant factors, such as ability and performance, and are free to pursue their academic and work activities in an atmosphere that is free from coercion and intimidation. Sexual harassment is inimical to such an atmosphere and will not be tolerated.

Sexual Harassment Policy and Procedures

1. The University has adopted a definition of sexual harassment that will be applied in determining whether or not particular conduct constitutes sexual harassment. This definition parallels Section 1604.11 of the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex. Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made explicitly or implicitly a term or condition of academic evaluation, advancement, or employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for decisions relating to evaluation of the academic performance or employment of the individual, (3) such conduct has the purpose or effect of substantially interfering with an individual's academic or work performance or limiting participation in University programs, or (4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment to a reasonable person.

This policy acknowledges that conduct that has the effect of sexual harassment may occur without regard to the gender of either party.

In accordance with the statement on academic freedom as outlined in the Faculty Code, course content, discussion (unless such discussion involves unwelcome verbal conduct of a sexual nature that is persistent, pervasive, severe, and not germane to course content), emphasis, textbooks and other assigned materials are specifically exempted from coverage. The sexual harassment policy refers to personal conduct.

Violation of this policy may lead to disciplinary action up to and including expulsion or termination.

2. Relationships that might be appropriate in other circumstances may be inappropriate when one of those involved must exercise professional judgment and responsibility over the

other. This constraint applies to faculty members, employees, graduate students, and any other members of the University community in supervisory or evaluative roles.

Individuals in supervisory or evaluative roles should be aware that any personal relationship explicitly or implicitly of a sexual nature with their subordinates, even when both parties have consented to it, risks possible formal action against them by the other participant or by a third party. It is the administrator, instructor, or other individual responsible for the evaluation of the work product of the other participant in the relationship who, by virtue of that special responsibility, will be held accountable.

3. Retaliation against a person who complains of sexual harassment is prohibited. Allegations of retaliation, by the person accused of sexual harassment or by any other person, will be investigated and may result in disciplinary action.

4. A person making capricious or frivolous allegations of sexual harassment may be subject to disciplinary action.

5. A member of the University community who believes that behavior of a sexual nature in the academic or work environment may be inappropriate may initiate a confidential consultation by contacting the Office of the Vice President and General Counsel (994-6503). That Office will assign a Coordinator and arrange a consultation. Consistent with the procedures set forth in Appendix A, Section A, Confidential Consultation, the Coordinator will make sure that the individual has a copy of the sexual harassment policies and procedures, respond to any questions about them, and assist the individual in developing strategies to deal with the situation. A member of the University community who believes that behavior of a sexual nature in the academic or work environment may be inappropriate may also discuss the issue with the Director of the Office of Equal Employment ~~Activities~~ Opportunity, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations. Those individuals will refer such matters to the Coordinator.

6. If the individual or the University wishes to file an informal complaint, the procedure set forth in Appendix A, Section B, Informal Complaint, will be followed.

7. If the allegations of sexual harassment are not satisfactorily resolved through the informal complaint process, a formal complaint may be filed. A formal complaint may be initiated by the person making the allegations or the person against whom the allegations have been made, or by the University. The procedures for the formal complaint process are set forth in Appendix B, Formal Complaint Process-Sexual Harassment.

8. If the informal complaint process or the formal complaint process results in a determination that sexual harassment has occurred, the findings and recommendations shall be referred to the appropriate University official for imposition of corrective action or sanctions. Possible sanctions may include, but are not limited to, oral warning, suspension, expulsion, or termination of employment subject to the provisions of law, of applicable University policies, and of the Faculty Code.

9. These procedures are intended to encourage resolution of a complaint of sexual harassment at the earliest possible stage. At the same time, where such resolution is not possible, these procedures provide for a more formal review of the situation by individuals not party to the case, and a final decision based upon that review. In providing these procedures, it is the intention of the University to carry them out in an equitable and timely manner. However, in extenuating circumstances, it may not be possible to adhere to established time frames, and extension of time shall not be construed as failure to follow established procedures.

10. All questions regarding interpretation of this policy, the procedures for the informal complaint process, or the procedures for formal complaints shall be resolved by the Office of the Vice President and General Counsel. The interpretation of the Office of the Vice President and General Counsel shall be subject to the provisions of law, applicable University policies, and of the Faculty Code.

Appendix A

INFORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. CONFIDENTIAL CONSULTATION

1. A member of the University community who is uncomfortable with a situation or behavior of a sexual nature which may be inappropriate (even though the person is not sure whether the conduct constitutes sexual harassment) may initiate a confidential consultation to discuss the matter. The individual should contact the Office of the Vice President and General Counsel (994-6503). The Office will assign a Coordinator and arrange an appointment for the consultation. An individual may also discuss the issue with the Director of the Office of Equal Employment ~~Activities~~ Opportunity, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, who will refer the matter to the Coordinator.

2. The confidential consultation consists of one or more meetings between the Coordinator and the individual requesting the consultation. The Coordinator will make sure that the individual has received a copy of the policies and procedures governing sexual harassment complaints and will respond to any questions about the policies and procedures.

3. Unless the University or the individual requesting the consultation decides to pursue an informal complaint, the consultation and the identity of the individual will remain confidential, to the extent practicable, and no other parties or University officials will be informed. A record of the consultation prepared by the Coordinator will be maintained by the Office of the Vice President and General Counsel, and kept confidential to the extent practicable.

4. The Coordinator will take action based on the consultation, including, but not limited to, clarifying and resolving the matter with the individual, pursuing an investigation and

continuing the informal complaint process, recommending counseling or other assistance or alternative action, or determining that no action is necessary.

5. When the Coordinator has reason to conclude that criminal conduct may have occurred or that it is necessary to protect the health or safety of any individual, the University may refer the matter to the appropriate authorities. A determination will be made by the Office of the Vice President and General Counsel.

6. While there are no specific time limits for requesting a confidential consultation or pursuing an informal complaint, persons who believe that they have been subject or are being subjected to sexual harassment are encouraged to seek assistance from the University through these procedures as soon as possible.

B. INFORMAL COMPLAINT PROCESS

1. If the University or the person requesting the confidential consultation decides to pursue an informal complaint, the Coordinator will conduct an investigation.

2. The Coordinator will request that the person alleging harassment (the "Complainant") provide an account of the facts and circumstances of the alleged harassment. The Coordinator may request a signed statement from the Complainant and may assist the Complainant with the preparation of the signed statement. The Coordinator will then conduct an investigation of the complaint, including notice to the person accused of harassment (the "Respondent").

3. If the Complainant declines to prepare a written statement, the Coordinator will prepare a written summary of the complaint based on the confidential consultation and conduct an investigation of the allegations.

4. Upon initiating an investigation, the Coordinator may inform the appropriate University officials—who would be charged with recommending or implementing any corrective or disciplinary action, of the informal complaint and that an investigation of the allegations is being conducted.

5. The process and scope of the investigation are at the discretion of the Coordinator.

6. Absolute confidentiality is rarely possible. However, the Coordinator will maintain confidentiality to the extent practicable and will advise the parties and all persons interviewed during the investigation (or notified of the investigation) of the need for discretion and confidentiality. Disregard for confidentiality may subject an individual to disciplinary action.

7. Upon concluding the investigation, the Coordinator will inform the Complainant and the Respondent of his or her findings and any recommendations for resolving the matter between the parties or recommendations that will be made to the appropriate University officials for further action.

8. The investigation of an informal complaint and the preparation of findings and recommendations by the Coordinator shall be completed as soon as reasonably possible given the circumstances.

9. The Coordinator will inform the University officials initially notified of the investigation (see § B.4) of the Coordinator's findings and any recommendations for corrective or disciplinary action. Any corrective or disciplinary action taken must be consistent with the provisions of law, applicable University policies, and the Faculty Code and be within the authority of the responsible University officials.

10. The responsible University Official shall provide the parties with a notice of corrective or disciplinary action taken, if any, along with a copy of the Coordinator's findings and recommendations, if any.

Appendix B

FORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. INITIATION OF THE FORMAL COMPLAINT PROCESS

1. If either party to the informal complaint process is dissatisfied with the outcome of the informal complaint, he or she may file a formal complaint.

2. A formal complaint must be filed within fifteen (15) business days after the receipt of notification from the responsible University official of the findings and recommendations resulting from the informal complaint process and of any corrective or disciplinary action taken based on the informal complaint process.

3. To initiate a formal complaint, the party must submit to the Coordinator a signed, written request to proceed with a formal complaint. The Coordinator will inform the requesting party of the specific complaint process that will be followed and provide a copy of the applicable procedures.

4. The specific formal complaint process that will be used depends on the status of the parties, as follows:

a. The Code of Student Conduct will govern the formal complaint process when both parties are students or when the Respondent is a student or a student organization, regardless of the status of the Complainant.

b. The Manual of Personnel Policies will govern the formal complaint process when both parties are staff members.

c. In the following circumstances, the formal complaint will be heard by a Formal Complaint Panel in accordance with the panel hearing procedures set forth below:

- (i) When the Complainant is a student and the Respondent is a faculty member or a staff member;
- (ii) When the Complainant is a faculty member and the Respondent is a staff member;
- (iii) When the Complainant is a staff member and the Respondent is a faculty member; or
- (iv) When the Complainant and the Respondent are both faculty members.

B. ESTABLISHMENT OF PANELS

1. Formal complaints of the types designated in § A.4.c. above will be heard by a five-member Formal Complaint Panel selected by the Associate Vice President for Human Resources (or the designee of the Associate Vice President) as described in Section D from a pool of eighteen (18) panelists who will be appointed as follows:

(a) Six (6) panelists will be appointed from the student body by the Senior Vice President for Student and Academic Support Services;

(b) Six (6) panelists will be appointed from among the members of the Faculty Senate Dispute Resolution Committee by the Chair of the Dispute Resolution Committee after consultation with the Executive Vice President for Academic Affairs; and

(c) Six (6) panelists will be appointed from the staff by the Vice President for Administrative and Information Services.

2. Each panelist will serve for a term of two (2) years. The appointing official should stagger the terms of appointment so that the terms of only three (3) of his or her appointees to the pool expire each year.

3. A panelist may be removed from the pool and replaced by another person at any time in the discretion of the appointing official. Vacancies in the pool of panelists should be promptly filled by the responsible appointing official.

4. Mandatory training will be provided for all appointees to the Formal Complaint Panel pool at the time of appointment and, as needed, on an ongoing basis. Training will be conducted by the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, the Dean of Students, and the Director of the Office of Equal Employment ~~Activities~~ Opportunity or their designees. Training shall include orientation in the roles and responsibilities of panel members, the complaint procedures, applicable policies, and other techniques and standards applicable to the complaint and hearing process.

C. INITIATION OF FORMAL COMPLAINT PANEL PROCEDURES

1. The written request to proceed with a formal complaint of a type designated in § A.4.c. above shall be filed with the Coordinator and shall include the following:

- (a) A request for a formal hearing;
- (b) A statement explaining the reasons why the findings or recommendations of the Coordinator should be modified or overturned; and
- (c) A statement of the relief requested.

D. SELECTION OF THE FORMAL COMPLAINT PANEL

1. When a formal complaint requiring a Formal Complaint Panel is received by the Coordinator, he or she shall forward the complaint to the Associate Vice President for Human Resources (or designee) who shall appoint the five-member panel on a rotating basis, as follows:

- (a) Two (2) panelists from the status group of the Complainant (faculty, student, or staff member);
- (b) Two (2) panelists from the status group of the Respondent (staff or faculty member); and
- (c) One (1) panelist from the remaining status group.

2. The goal of the Formal Complaint Panel process is to complete the formal complaint procedures within forty-five (45) business days of the receipt of the formal complaint request by the Coordinator. Therefore, the members of each Formal Complaint Panel should be designated and the Coordinator notified of their selection within five (5) business days.

3. As soon as the members of the Formal Complaint Panel have been designated, the Coordinator will notify both parties of the names of the panelists. Any party to the dispute may disqualify one member of the Formal Complaint Panel by peremptory challenge. Any party may also seek to disqualify any member of the Formal Complaint Panel for cause. Within three (3) days of the receipt of the notice, a party shall submit any challenge(s) in writing to the Associate Vice President for Human Resources. The Associate Vice President may, in his or her discretion, replace a challenged panelist with another member of the pool from the same status group.

4. A designated panelist who has a conflict of interest or is otherwise unable to serve on a Formal Complaint Panel shall recuse himself or herself by notifying the Associate Vice President.

E. FORMAL COMPLAINT PANEL ORGANIZATION

1. Within five (5) business days after the appointment of the Formal Complaint Panel, the panel members shall select a chairperson and review the request for a hearing.
2. The Formal Complaint Panel may request clarification or additional information from the Coordinator or from the parties. There shall be no ex parte communication between the members of the panel and either of the parties.

F. FORMAL COMPLAINT PANEL PROCEDURES - SUMMARY DECISION

1. The Formal Complaint Panel may issue a summary decision denying the request for a hearing and affirming the informal complaint process if the Formal Complaint Panel determines that the reasons presented for overturning or modifying the findings or recommendations of the Coordinator are without significant merit.
2. If the Formal Complaint Panel denies the request for a hearing, its decision will be in writing and include statements of reasons for denial of the request for a hearing. Copies of the Formal Complaint Panel's decision will be provided to the party who requested the hearing, the Coordinator, the official responsible for implementing corrective or disciplinary action, and the Associate Vice President for Human Resources.
3. Within fifteen (15) business days after receiving the summary decision of the Formal Complaint Panel, either party may appeal the decision to the Associate Vice President for Human Resources. The appeal shall be in writing and shall set forth the reasons why the summary decision of the Formal Complaint Panel should be overturned.
4. The Associate Vice President for Human Resources shall review the record including the request for hearing, the summary decision of the Formal Complaint Panel, and the written appeal. If the Associate Vice President determines that the Formal Complaint Panel followed the guidelines for summary denial of the request for a hearing, he or she shall affirm the decision of the Formal Complaint Panel.
5. If the Associate Vice President determines that the summary decision of the Formal Complaint Panel was not made in accordance with the guidelines, he or she will appoint a new Formal Complaint Panel from the remaining members of the Formal Complaint Panel pool. The new Panel may issue a summary decision or proceed with the hearing process.

G. FORMAL COMPLAINT PANEL PROCEDURES - SCHEDULING A HEARING

1. If the Formal Complaint Panel grants the request for a hearing, it will set the date and time for the hearing. If a new Formal Complaint Panel is appointed to conduct a hearing after a summary decision is overturned, the panelists will meet within a reasonable period of time, normally five (5) business days after their appointment, to select a chairperson and to set the date and time for a hearing. The hearing should be scheduled within a reasonable period of time, normally twenty (20) business days, after the Formal Complaint Panel is appointed.

2. The chairperson of the Formal Complaint Panel shall notify the parties of the date, time, and location of the hearing at least seven (7) business days prior to the hearing. Within seventy-two (72) hours after receiving notice of the hearing, a party with a scheduling conflict may submit a request to the chairperson for a postponement. The chairperson, after consulting the members of the Formal Complaint Panel, shall have the discretion to reschedule the hearing. All parties will be notified as soon as possible if the hearing is rescheduled.

3. If one or more of the parties does not appear for the hearing within sixty (60) minutes after the scheduled time, the Formal Complaint Panel shall decide whether to reschedule the hearing or to proceed.

H. FORMAL COMPLAINT PANEL PROCEDURES - CONDUCT OF HEARINGS

1. The chairperson of the Formal Complaint Panel shall preside over the hearing and make decisions on procedural issues. The hearing will be conducted in the following order:

(a) Preliminary Matters - the chairperson will introduce the parties and their counsel or advisors and the members of the Formal Complaint Panel; will review the order of proceedings and explain procedures governing the use of the tape recorder, and present a brief summary of the complaint.

(b) Opening Statements - the party requesting the hearing may make an opening statement. The responding party may then make an opening statement. Opening statements are limited to thirty (30) minutes in length.

(c) Presentation by the Party Requesting the Hearing - the party requesting the hearing may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the party and each witness, the other party will be permitted to ask questions.

(d) Presentation by the Responding Party - the party responding to the request for hearing may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the party and each witness, the other party will be permitted to ask questions.

(e) Closing Statements - the party requesting the hearing may make a closing statement. The responding party may then make a closing statement. Closing statements are limited to thirty (30) minutes in length.

2. Members of the Formal Complaint Panel may ask questions of the parties or witnesses at any time during the hearing.

3. The hearing will not be conducted according to strict rules of evidence; however, the chairperson of the Formal Complaint Panel may limit or exclude irrelevant or repetitive testimony.

4. When the hearing is lengthy or when it cannot be completed in one session for any

other reason, the chairperson of the Formal Complaint Panel may continue the hearing to a date and time acceptable to the parties and the members of the Formal Complaint Panel.

5. Each hearing will be electronically recorded on audiotape. A copy of the recording may be obtained by either party from the Coordinator at a reasonable cost upon written request.
6. The hearings shall be open to the public unless either party requests that the hearing be closed or the Formal Complaint Panel determines that it is in the best interest of the University and the parties that the hearing be closed.

I. FORMAL COMPLAINT PANEL PROCEDURES - WITNESSES

1. Each party may request witnesses to present testimony at the hearing and the Formal Complaint Panel may require the complainant to testify.
2. At least five (5) business days before the hearing, each party shall provide the Coordinator, the chairperson of the Formal Complaint Panel and the other party with a list of witnesses he or she intends to present at the hearing
3. The Formal Complaint Panel may request the appearance of additional witnesses. The Coordinator will arrange for the appearance of these witnesses.
4. Each party is responsible for notifying their witnesses of the date, time, and place of the hearing. A hearing will not automatically be postponed because a witness fails to appear.
5. All witnesses will be excluded from the hearing both before and after their testimony. A witness may be recalled at the discretion of the Formal Complaint Panel chairperson.
6. A University employee must notify his or her supervisor of the need to be absent from work to appear at a hearing. Employees will be paid while appearing at a hearing during working hours, but will not be paid for any other time spent on the complaint during or outside of working hours.
7. Supervisors and professors should be aware of the importance of hearings and not unreasonably withhold permission for appearance at a hearing. If an employee or student needs assistance in obtaining permission to appear at a hearing, he or she should contact the Coordinator.

J. FORMAL COMPLAINT PANEL PROCEDURES - ADVISORS

1. Each party may be accompanied by an advisor. The advisor may be an employee of the University, an attorney, or any other person selected by the party.
2. If either the Complainant or the Respondent plans to be accompanied by an attorney

or other advisor at the hearing, the Coordinator, the chairperson of the Formal Complaint Panel and the other party must be notified at least five (5) business days prior to the hearing.

3. The Formal Complaint Panel may request that a University furnished attorney or other advisor be present at any hearing to provide advice to the Formal Complaint Panel.

4. The University may have an observer present at any hearing.

K. DECISION OF THE FORMAL COMPLAINT PANEL

1. After the hearing, the Formal Complaint Panel will meet in a closed session to review the hearing and make a decision on the complaint. The decision must be approved by a majority of the members of the Formal Complaint Panel.

2. The decision of the Formal Complaint Panel shall be in writing and set forth the panel's findings of fact and conclusions.

3. The written decision of the Formal Complaint Panel shall be submitted to the Associate Vice President for Human Resources within thirty (30) calendar days after the conclusion of the hearing. The Associate Vice President will send a copy of the decision to both parties at their home addresses of record by courier, overnight mail, or certified mail (return receipt requested).

4. If it is the decision of the Formal Complaint Panel that sexual harassment did occur, the Associate Vice President for Human Resources shall forward a copy of the written decision to the University official responsible for recommending or implementing corrective or disciplinary action.

L. APPEAL OF THE DECISION OF THE FORMAL COMPLAINT PANEL

1. A party who is dissatisfied with the decision of the Formal Complaint Panel may file an appeal with the Executive Vice President for Academic Affairs. The appeal must be in writing and set forth the reasons why the decision of the Formal Complaint Panel should be modified or overturned. The appeal must be based on the hearing record and may not present new evidence or testimony.

2. An appeal must be filed within fifteen (15) business days of the receipt of the decision of the Formal Complaint Panel. If an appeal is not received by the deadline, the decision of the Formal Complaint Panel will be the final University decision on the complaint.

3. Efforts will be made by the Executive Vice President for Academic Affairs to issue a final decision on the appeal within twenty (20) business days. The decision of the Executive Vice President for Academic Affairs shall be the final University decision on the complaint.

4. When the decision of the Formal Complaint Panel is final, or when the final decision on appeal is issued, the Coordinator will provide a copy of the final decision to the University official(s) responsible for implementing corrective or disciplinary action. Any corrective or disciplinary action taken by the responsible University official shall be subject to the provisions of law, of applicable University policies, and of the Faculty Code, and be within the authority of the responsible University official.

A RESOLUTION EXPRESSING CONCERN ABOUT AND REQUESTING JOINT SENATE AND ADMINISTRATION REVIEW OF THE RECENT CLASSROOM SHORTAGE (04/4)

WHEREAS, the Scheduling Office has very recently rejected significant parts of class schedules proposed by some academic departments, that have been in their hands since mid-July, and directed numerous departments in several schools to either cancel or reschedule a set of classes identified as ones to which they have not been able to assign a classroom at the requested day/time/campus; and

WHEREAS, the Fiscal Planning and Budgeting Committee has in its Budget reports in recent years noted the strong likelihood of this sort of classroom crisis, due to a confluence of rapidly rising undergraduate enrollments and a declining stock of available mid-size classrooms, combined with an apparent unwillingness on the part of University administration budget authorities to plan and invest appropriately to meet the challenges of providing an adequately increased supply of classrooms, repeatedly asserting that more efficient use of our existing facilities would resolve these problems; and

WHEREAS, this recent experience shows clearly that there still exists an inadequate supply of classrooms to meet the desires and needs of academic departments to schedule courses at certain times/days, despite recent radical restructuring of the time-bands to achieve greater efficiency of use of existing resources; **NOW, THEREFORE,**

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

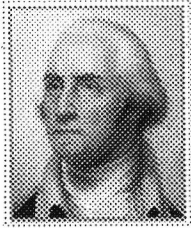
(1) That the Faculty Senate requests that the President direct a high-level review of the recent classroom shortage and of plans to remedy this situation no later than Fall 2005 and in future semesters, such review to be conducted with the participation of faculty designated by the Faculty Senate, the results of this review to be reported to the Senate before the Fall 05 Schedule of Classes is to be established; and

(2) That the Faculty Senate requests that a joint subcommittee be constituted by the Chairs of the Committee on Physical Facilities, on Educational Policy, and Fiscal Planning and Budgeting, and designates this Joint Subcommittee to participate in the Administrative review requested in the preceding paragraph.

Respectfully submitted,

William B. Griffith, Member, CCAS
Nov. 12, 2004

Adopted, as amended, November 12, 2004



THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON DC

Academic Affairs

Faculty Counts -- Fall 2004

**Non-tenure-track and tenure-track
faculty members**

Data (12 November 2004)

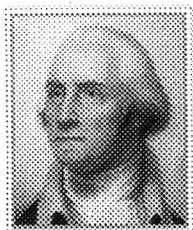


THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON DC

Regular Active Status Faculty Numbers (NTT and TT)

Academic Affairs

School	2004	2003	2002	2001	2000	1999	1998
CSAS	420	412	399	392	371	371	360
ESIA	44	42	41	37	39	37	36
SB	122	118	131	130	122	120	116
SEAS	84	87	85	82	77	71	71
GSEHD	70	70	71	67	68	65	64
Totals	740	729	727	708	680	664	647



THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON DC

Regular Active Status Faculty Numbers (NTT/TT)

Academic Affairs

School	2004	2003	2002	2001	2000	1999
CSAS	108/312	108/304	102/297	98/294	75/299	70/301
ESIA	7/37	6/36	6/35	5/32	6/33	6/31
SBPM	22/100	27/91	29/102	29/101	22/101	18/102
SEAS	7/77	8/79	9/76	11/71	11/65	7/64
GSEHD	29/41	30/40	29/42	26/41	26/42	25/40
Totals	173/567	179/550	175/552	169/539	140/540	126/538



THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON DC

Regular Active Status Faculty Numbers (NTT and TT)

Academic Affairs

School	2004	2003	2002	2001	2000
CPS	3	2	2	0	0
Law	76	71	75	74	72
SMHS	84	84	85	87	93
SPHHS	50	38	38	34	29
Totals	213	195	200	195	194



THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON DC

Regular Active Status Faculty Numbers (NTT/TT)

Academic Affairs

School	2004	2003	2002	2001	2000
CPS	3/0	2/0	2/0	0/0	0/0
Law	11/65	11/60	13/62	12/62	14/58
SMHS	32/52	32/52	30/55	31/56	41/52
SPHHS	30/20	21/17	25/13	22/12	15/14
Totals	76/137	66/129	70/130	65//130	70/124

REPORT OF THE EXECUTIVE COMMITTEE

November 12, 2004

Arthur E. Wilmarth, Jr., Chair

ACTIONS OF THE EXECUTIVE COMMITTEE

The Executive Committee has been asked to appoint up to three faculty members to a joint administration-faculty task force that Executive Vice President for Academic Affairs Lehman plans to establish in January 2005, for the purpose of considering the possible implementation of a 4 x 4 undergraduate curriculum for the University. The Executive Committee has also provided information and assistance to the Committee on Appointments, Salary, and Promotion Policies and the Committee on Professional Ethics and Academic Freedom in connection with their consideration of proposed revisions to the Research Misconduct Policy and the Conflict of Interest Policy.

PERSONNEL MATTERS

A faculty grievance in the School of Business, which has been previously reported on, is currently in the mediation stage. No new faculty grievances have been filed since the last report of the Executive Committee.

REPORTS TO BE PRESENTED AT THE MEETING OF THE FACULTY SENATE ON DECEMBER 10, 2004

The Executive Committee has asked the Director of the Office of Summer Students, University Students, and Academic Integrity to present a report at the Faculty Senate's next regular meeting on December 10, 2004, regarding actions taken during the past two years under the Academic Integrity Code. In addition, the Executive Committee has asked Dean Susan Phillips of the School of Business to present a report at the same meeting concerning recent developments in the School of Business.

REPORT TO THE ACADEMIC AFFAIRS COMMITTEE OF THE BOARD OF TRUSTEES

Pursuant to established practice, the Chair of the Executive Committee presented the report of the Faculty Senate to the Academic Affairs Committee of the Board of Trustees at that Committee's meeting on October 14, 2004. Copies of the Faculty Senate's report are being distributed to members of the Faculty Senate at today's meeting.

REQUEST FOR INTERIM REPORTS OF STANDING COMMITTEES

Interim reports of Standing Committees of the Faculty Senate should be presented at the Senate's next regular meeting on December 10, 2004. Chairs of Standing Committees are requested to include in their interim reports a description of all completed issues and a discussion of the status of all pending matters.

ANNOUNCEMENTS

The next meeting of the Executive Committee will be held on November 19, 2004. Resolutions, reports, and other items of business for the November 19 meeting should reach the Executive Committee before that date.

Respectfully submitted,

**Arthur E. Wilmarth, Jr.
Chair, Executive Committee of the
Faculty Senate**

**REPORT OF THE FACULTY SENATE
TO THE ACADEMIC AFFAIRS COMMITTEE OF THE BOARD OF TRUSTEES**

October 1, 2004

The Faculty Senate has met twice – on May 7 and September 10 – since the Executive Committee provided its most recent report to the Board of Trustees.

ACTION ITEMS:

The Senate considered and passed two resolutions at its meeting on May 7. (The resolutions are enclosed.)

Resolution on Construction of New Science Facilities as the Top Priority Among New Academic Structures (Resolution 04/01)

Presented by the Physical Facilities Committee, this resolution expresses the Faculty Senate's recommendation that the construction of new science facilities should be the top priority for the University in planning for future academic building projects. The resolution recommends that the contemplated new science facilities should (i) accommodate the needs of University-wide academic and research programs involving the physical, life, and mathematical sciences, science programming, and science-related engineering programs, and (ii) be developed through a "careful collaborative planning process that includes science and non-science faculty, academic deans, campus planners and architects, advancement staff, and budget officers." The resolution passed by unanimous vote. The Administration's response to Resolution 04/01, submitted by President Trachtenberg on June 27, 2004, stated that "[t]his recommendation is fully understood and it is our aim to address it as briskly as circumstances and contingent resources permit; [the] Administration concurs that making the improvement of science facilities for teaching and research a priority at the University is sound."

Resolution on Research Priorities at The George Washington University (Resolution 04/02)

Presented by the Committee on Research, this resolution urges the University Administration to institute a plan to fully fund the Research Enhancement Incentive Award (REIA) program in order to provide principal investigators, departments, and schools with funds proportionate to their sponsored research activities for reinvestment in program expenditures that are critical to the success of research grant proposals, such as proposal development, startup packages for new faculty, and equipment cost sharing. The resolution also requests that the University Administration (i) encourage academic deans to continue their support of research activities within their respective schools, and (ii) establish budgeting priorities in accordance with goals for the expansion of research activities across the University. The resolution expresses the faculty's commitment to work with the Administration in developing specific research priorities to be pursued over the next 3-5 years and in establishing mechanisms for funding those priorities. The resolution passed by unanimous vote. The Administration's response to Resolution 04/02, submitted by President Trachtenberg on June 27, 2004, states that the resolution is "[a]cknowledged as a recommendation."

STATUS OF FACULTY PERSONNEL MATTERS

As previously reported, following the hearing of a faculty grievance in Columbian College, the Hearing Committee issued a decision denying the grievance. The grievant did not appeal, and the Hearing Committee's decision has become final. In a second previously reported faculty grievance in Columbian College, the grievant and the University reached a mutually satisfactory settlement.

A grievance is currently pending in the School of Business. The grievant recently submitted a written statement of the grievance, and it is expected that the Chair of the Dispute Resolution Committee will promptly appoint a mediator for the purpose of assisting the University and the grievant in exploring a possible resolution of the dispute.

During the 2003-04 academic year, the Executive Committee was not called upon to review any cases involving administrative nonconcurrences with faculty recommendations for tenure or promotion.

OTHER MATTERS

At its meeting on September 10, the Faculty Senate received the following two updates: (i) an informal report from Executive Vice President and Treasurer Katz concerning recent campus building and renovation activities and the implications of Standard & Poor's recent decision to downgrade Georgetown University's bond rating, and (ii) an informal report from Executive Vice President for Academic Affairs Lehman on unionization efforts involving the University's part-time faculty.

Respectfully submitted,

Arthur E. Wilmarth, Jr.
Chair, Executive Committee
Faculty Senate

THE GEORGE WASHINGTON UNIVERSITY
Washington, D.C.

The Faculty Senate

November 3, 2004

The Faculty Senate will meet on Friday, November 12, 2004, at 2:10 p.m., in the Alumni House, First Floor, 1925 F Street, N.W.

AGENDA

1. Call to order
2. Approval of the minutes of the regular meeting of September 10, 2004, as distributed
3. Resolutions
A RESOLUTION TO ENDORSE REINSTATEMENT OF THE INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS, AS ORIGINALLY ADOPTED BY THE FACULTY SENATE IN RESOLUTION 98/5, WITH CERTAIN FURTHER AMENDMENTS (04/3);
Professor Arthur E. Wilmarth, Jr., Chair, Executive Committee of the Faculty Senate
(The Resolution and three exhibits are attached.)
4. Introduction of Resolutions
5. Annual Report to the Faculty Senate, pursuant to Senate Resolution 01/11, from Dean Ruth J. Katz of the School of Public Health and Health Services, regarding implementation of a plan to bring SPHHS into compliance with Faculty Code provisions as to required percentages of tenured and tenure-track faculty
6. Report to the Faculty Senate on the School of Medicine and Health Sciences:
Dean James L. Scott
7. Report from Executive Vice President for Academic Affairs Donald R. Lehman concerning percentages of tenured and tenure-track faculty among the regular, active-status faculty in each School
8. Update on Unionization Efforts: Executive Vice President for Academic Affairs Donald R. Lehman
9. General Business:
 - (a) Nominees for election to Senate Standing Committees: Fiscal Planning & Budgeting: Professor Frederick W. Lindahl, Accountancy; Appointment, Salary, and Promotion Policies: Professor Eugene Abravanel, Psychology
 - (b) Report of the Executive Committee: Professor Arthur E. Wilmarth, Jr., Chair
10. Brief Statements (and Questions)
11. Adjournment

Craig W. Linebaugh
Secretary

Attachments

A RESOLUTION TO ENDORSE REINSTATEMENT OF THE INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS, AS ORIGINALLY ADOPTED BY THE FACULTY SENATE IN RESOLUTION 98/5, WITH CERTAIN FURTHER AMENDMENTS (04/3)

WHEREAS, in Resolution 98/5, adopted on December 11, 1998, the Faculty Senate (i) endorsed the Interim Policy and Procedures Governing Sexual Harassment Complaints, as amended (the "Interim Policy and Procedures endorsed in Resolution 98/5"), and recommended the promulgation of that document to the University community; (ii) recommended that an ad hoc committee be jointly appointed by the Vice President for Academic Affairs and the Chair of the Faculty Senate Executive Committee; and (iii) recommended that the ad hoc committee review the Interim Policy and Procedures as endorsed in Resolution 98/5 and report its recommendations to the Faculty Senate with regard to any proposed amendments to that document; and

WHEREAS, in Resolution 99/6, adopted on May 5, 2000, the Faculty Senate reviewed and endorsed, with a number of amendments, the ad hoc committee's proposed Policy and Procedures Governing Sexual Harassment Complaints ("Resolution 99/6 Document"), as a proposed replacement for the Interim Policy and Procedures endorsed in Resolution 98/5; and

WHEREAS, the University Administration referred the Resolution 99/6 Document to outside counsel and, on January 4, 2001, the Administration issued a "Revised Draft," which significantly changed the Resolution 99/6 Document and incorporated a number of provisions that the Faculty Senate had specifically rejected in adopting Resolution 99/6; and

WHEREAS, in Resolution 00/6, adopted on April 27, 2001, the Faculty Senate withheld its endorsement of the "Revised Draft" and "urgently request[ed] the University President to suspend acceptance of the Revised Draft and direct the preparation, in consultation with the Faculty Senate, of a re-draft of the Sexual Harassment Policies and Procedures with the goal of more fairly balancing the procedural rights of the respondents with the creation of an appropriate process that does not discourage complainants"; and

WHEREAS, in a memorandum dated June 27, 2001, from the President to the Chair of the Executive Committee of the Faculty Senate, the Administration stated that its response to Resolution 00/6 was "[i]n process", but to date no further response to Resolution 00/6 has been presented to the Faculty Senate; and

WHEREAS, during the period from December 11, 1998, to June 25, 2004, absent any notice to the contrary from the Administration, members of the Faculty Senate Executive Committee and other members of the Faculty Senate understood that the Interim Policy and Procedures endorsed in Resolution 98/5 remained in force as the document governing sexual harassment complaints in which faculty members were named as parties; and

WHEREAS, on June 25, 2004, in response to an inquiry from the Chair of the Executive Committee regarding notification procedures followed in a recent sexual harassment investigation, the Administration provided the Executive Committee with a document designated as "Interim Policy and Procedures Governing Sexual Harassment Complaints (Revised 4/14/99)" (the "4/14/99 Revision"), which the Executive Committee learned was posted on the University's website along with other University policies; and

WHEREAS, the Faculty Senate was not consulted, in accordance with established shared governance practices, when the Administration prepared the 4/14/99 Revision, and, prior to June 25, 2004, the Faculty Senate was not notified that the Administration had adopted the 4/14/99 Revision and had posted that document on the website for University policies; and

WHEREAS, based on its review of the 4/14/99 Revision, the Executive Committee determined that the 4/14/99 Revision made twelve significant changes to the Interim Policy and Procedures endorsed in Resolution 98/5, with many of those changes affecting academic freedom and the due process rights of complainants and respondents in sexual harassment proceedings; and

WHEREAS, (i) Exhibit A attached hereto sets forth the Interim Policy and Procedures endorsed in Resolution 98/5, as marked to show all of the changes made in the 4/14/99 Revision; and (ii) Exhibit B attached hereto summarizes the twelve most significant changes that were made in the 4/14/99 Revision; and

WHEREAS, Article IX of the Faculty Code recognizes fundamental principles of shared governance that promote cooperation and consensus in decision making among the regular, active-status faculty, the officers of the University Administration, and the Board of Trustees; and, in particular, Article IX.B. states that "[t]he faculty cannot perform an effective and responsible role in University decision making without the cooperation of the administrative officers of the University. . . . Faculty bodies charged with responsibilities for particular policy and planning areas are entitled, to the extent feasible, to be informed sufficiently in advance of important decisions within their areas of competence to be able to provide their advice or recommendations to the appropriate University officials"; and

WHEREAS, in recognition of the foregoing principles of shared governance, Article I, Section 2 of the Faculty Organization Plan provides that "the Faculty Senate . . . shall be a representative body acting for the Faculty as a whole in legislative and advisory capacities"; accordingly, the Faculty Senate and the Administration have followed a long-established practice under which the Administration refers to the Faculty Senate, for its advice and recommendations, proposed University policies with a significant potential impact on the faculty before such policies are adopted or implemented by either the Administration or the Board of Trustees; and

WHEREAS, the Faculty Senate Executive Committee has expressed to the Administration its firm belief and great concern that the Administration's adoption and

implementation of the 4/14/99 Revision, without prior consultation with or notice to the Faculty Senate, represented a clear departure from the principles, practice, and tradition of shared governance at The George Washington University; and

WHEREAS, in response to the expressions of the Faculty Senate Executive Committee, the Administration has agreed to reinstate the Interim Policy and Procedures endorsed in Resolution 98/5, with certain amendments, in accordance with the following understandings:

- (1) In adopting this Resolution 04/3, the Faculty Senate will endorse the following amendments to the Interim Policy and Procedures endorsed in Resolution 98/5: (a) the Code of Student Conduct will govern formal complaints in which both parties are students or the respondent is a student, (b) the Manual of Personnel Policies will govern formal complaints in which both parties are staff members, (c) persons who have concerns or potential complaints about inappropriate sexual behavior may contact, in addition to the Sexual Harassment Coordinator, the Director of Equal Employment Activities, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, but each of those persons will refer all such matters to the Coordinator, and (d) a formal complaint hearing will be closed to the public if either party so requests [new provision] or if the formal complaint panel so determines [existing Senate provision]; and
- (2) The Interim Policy and Procedures endorsed by Resolution 98/5 and amended by Resolution 04/3 will take effect upon the Faculty Senate's adoption of this Resolution; and
- (3) The Faculty Senate and the Administration will use their best efforts to agree on a final policy and procedures governing sexual harassment before the expiration of the Faculty Senate's 2004-05 term; to that end, this Resolution will authorize the creation of a joint task force to prepare a consensus document that will be reported to the Faculty Senate's Committee on Professional Ethics and Academic Freedom ("PEAF Committee") for its expeditious review and, following such review, the consensus document will be referred to the Faculty Senate with the PEAF Committee's recommendations; and
- (4) In negotiating a consensus document, representatives of the Faculty Senate and the Administration will not necessarily be required to adopt all of the provisions of the Interim Policy and Procedures endorsed in Resolution 98/5 and amended by Resolution 04/3, it being understood that the Faculty Senate and the Administration have agreed to reinstate the Interim Policy and Procedures in order to restore a spirit of mutual

comity and trust, and in furtherance of the principles of shared governance; and

WHEREAS, attached as Exhibit C hereto is the Interim Policy and Procedures Governing Sexual Harassment Complaints as endorsed in Resolution 98/5, as marked to show the amendments needed to satisfy the Administration's requests set forth in paragraph (1) of the foregoing recital and to make a small number of further technical and clarifying changes;

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

- (1) That the Faculty Senate endorses the "Interim Policy and Procedures Governing Sexual Harassment Complaints" in the form attached hereto as Exhibit C, and recommends that such policy and procedures take effect in the University community as of the date of the Faculty Senate's adoption of this Resolution and continue in effect until the approval and implementation of a final policy and procedures governing sexual harassment; and
- (2) That the "Interim Policy and Procedures Governing Sexual Harassment Complaints," as amended and endorsed by this Resolution, be referred to a joint task force appointed by the Executive Vice President for Academic Affairs and the Chair of the Executive Committee of the Faculty Senate for the purpose of drafting a consensus final policy and procedures governing sexual harassment complaints, which will be reported to the Committee on Professional Ethics and Academic Freedom of the Faculty Senate ("PEAF Committee") for its expeditious review and, following such review, will be referred to the Faculty Senate with the PEAF Committee's recommendations; and
- (3) That the joint task force, the PEAF Committee and the Faculty Senate will use their best efforts to recommend, prior to the expiration of the Faculty Senate's 2004-05 term, a final policy and procedures governing sexual harassment for approval and implementation by the University Administration.

Executive Committee of the Faculty Senate
November 3, 2004

EXHIBIT A

This document has been marked to show all of the changes made by the administration as of 4/14/99 to the Interim Policy and Procedures Governing Sexual Harassment Complaints, endorsed by Senate Resolution 98/5.

Notes referenced in the text may be found appended to this Exhibit A.

INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS

Introduction

The George Washington University reaffirms its commitment to maintaining a positive climate for study and work in which individuals are judged solely on relevant factors, such as ability and performance, and are free to pursue their academic and work activities in an atmosphere that is free from coercion and intimidation. Sexual harassment is inimical to such an atmosphere and will not be tolerated.

Sexual Harassment Policy and Procedures

is substantially derived from

1. The University has adopted a definition of sexual harassment that will be applied in determining whether or not particular conduct constitutes sexual harassment. This definition ~~parallels~~ Section 1604.11 of the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex. Sexual harassment is defined as:

citation expanded, see note 1

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made explicitly or implicitly a term or condition of academic ~~evaluation~~, advancement, or employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for decisions relating to evaluation of the academic performance or employment of the individual, (3) such conduct has the purpose or effect of substantially interfering with an individual's academic work performance or limiting participation in University programs, or (4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment ~~to a reasonable person~~.

This policy acknowledges that conduct that has the effect of sexual harassment may occur without regard to the gender of either party.

In accordance with the statement on academic freedom as outlined in the Faculty Code, course content, ~~discussion (unless such discussion involves unwelcome verbal conduct of a sexual nature that is persistent, pervasive, severe, and not germane to course content),~~

par tation or activity or educational

and/or
or emphasis, textbooks and other assigned materials are specifically exempted from coverage. The sexual harassment policy refers to personal conduct.

Violation of this policy may lead to disciplinary action up to and including expulsion or termination.

are 2. Relationships that might be appropriate in other circumstances ~~may be~~ inappropriate when one of those involved must exercise professional judgment and responsibility over the other. This constraint applies to faculty members, employees, graduate students, and any other members of the University community in supervisory or evaluative roles.

makes Individuals in supervisory or evaluative roles should be aware that any personal relationship ~~explicitly or implicitly of a sexual nature~~ with their subordinates, even when both parties have consented to it, ~~risks~~ possible formal action against them by the other participant or by a third party. It is the administrator, instructor, or other individual responsible for the ~~evaluation of the work product of the other~~ participant in the relationship who, by virtue of that special responsibility, will be held accountable.

3. Retaliation against a person who complains of sexual harassment is prohibited. Allegations of retaliation, by the person accused of sexual harassment or by any other person, will be investigated and may result in disciplinary action.

4. A person making capricious or frivolous allegations of sexual harassment may be subject to disciplinary action.

5. A member of the University community who believes that behavior of a sexual nature in the academic or work environment may be inappropriate may initiate a confidential consultation by contacting the Office of the Vice President and General Counsel (994-6503). That Office will assign a Coordinator and arrange a consultation. Consistent with the procedures set forth in Appendix A, Section A, Confidential Consultation, the Coordinator will make sure that the individual has a copy of the sexual harassment policies and procedures, respond to any questions about them, and assist the individual in developing strategies to deal with the situation. Language added: see note 2

6. If the individual or the University wishes to file an informal complaint, the procedure set forth in Appendix A, Section B, Informal Complaint, will be followed.

7. If the allegations of sexual harassment are not satisfactorily resolved through the informal complaint process, a formal complaint may be filed. A formal complaint may be initiated by the person making the allegations or the person against whom the allegations have been made, or by the University. The procedures for the formal complaint process are set forth in Appendix B, Formal Complaint Process-Sexual Harassment.

8. If the informal complaint process or the formal complaint process results in a determination that sexual harassment has occurred, the findings and recommendations shall be referred to the appropriate University official for imposition of corrective action or sanctions. Possible sanctions ~~may include, but are not limited to, oral warning, suspension, expulsion, or termination of employment subject to the provisions of law, of applicable University policies, and of the Faculty Code.~~ or institution of tenure revocation proceedings under the provisions of the Faculty Code.

9. These procedures are intended to encourage resolution of a complaint of sexual harassment at the earliest possible stage. At the same time, where such resolution is not possible, these procedures provide for a more formal review of the situation by individuals not party to the case, and a final decision based upon that review. In providing these procedures, it is the intention of the University to carry them out in an equitable and timely manner. However, in extenuating circumstances, it may not be possible to adhere to established time frames, and extension of time shall not be construed as failure to follow established procedures.

10. All questions regarding interpretation of this policy, the procedures for the informal complaint process, or the procedures for formal complaints shall be resolved by the Office of the Vice President and General Counsel. ~~The interpretation of the Office of the Vice President and General Counsel shall be subject to the provisions of law, applicable University policies, and of the Faculty Code.~~

Appendix A

INFORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. CONFIDENTIAL CONSULTATION

1. A member of the University community who is uncomfortable with a situation or behavior of a sexual nature which may be inappropriate (even though the person is not sure whether the conduct constitutes sexual harassment) may initiate a confidential consultation to discuss the matter. The individual should contact the Office of the Vice President and General Counsel (994-6503). The Office will assign a Coordinator and arrange an appointment for the consultation. ^{language added: see note 3}

2. The confidential consultation consists of one or more meetings between the Coordinator and the individual requesting the consultation. The Coordinator will make sure that the individual has received a copy of the policies and procedures governing sexual harassment complaints and will respond to any questions about the policies and procedures.

3. Unless the University or the individual requesting the consultation decides to pursue an informal complaint, the consultation and the identity of the individual will remain confidential, to the extent practicable, and no other parties or University officials will be informed. A record of the consultation prepared by the Coordinator will be maintained by the Office of the Vice President and General Counsel, kept confidential to the extent practicable.

4. The Coordinator will take action based on the consultation, including, but not limited to, clarifying and resolving the matter with the individual, pursuing an investigation and continuing the informal complaint process, recommending counseling or other assistance or alternative action, or determining that no action is necessary.

5. When the Coordinator has reason to conclude that criminal conduct may have occurred or that it is necessary to protect the health or safety of any individual, the University may refer the matter to the appropriate authorities. A determination will be made by the Office of the Vice President and General Counsel.

6. While there are no specific time limits for requesting a confidential consultation or pursuing an informal complaint, persons who believe that they have been or are being subjected to sexual harassment are encouraged to seek assistance from the University through these procedures as soon as possible.

B. INFORMAL COMPLAINT

1. If the University or the person requesting the confidential consultation decides to pursue an informal complaint, the Coordinator will conduct an investigation.

2. The Coordinator will request that the person alleging harassment (the "Complainant") provide an account of the facts and circumstances of the alleged harassment. The Coordinator may request a signed statement from the Complainant and may assist the Complainant with the preparation of the signed statement. The Coordinator will then conduct an investigation of the complaint, including notice to the ~~respondent.~~ person accused of harassment (the "Respondent").

3. If the Complainant declines to prepare a written statement, the Coordinator will prepare a written summary of the complaint based on the confidential consultation and conduct an investigation of the allegations.

4. Upon initiating an investigation, the Coordinator may inform the appropriate University officials, who would be charged with recommending or implementing any corrective or disciplinary action, of the informal complaint and that an investigation of the allegations is being conducted.

5. The process and scope of the investigation are at the discretion of the Coordinator.

6. Absolute confidentiality is rarely possible. However, the Coordinator will maintain confidentiality to the extent practicable and will advise the parties and all persons interviewed during the investigation (or notified of the investigation) of the need for discretion and confidentiality. Disregard for confidentiality may subject an individual to disciplinary action.

7. Upon concluding the investigation, the Coordinator will inform the Complainant and the ~~person accused of harassment (the~~ Respondent of his or her findings and any recommendations for resolving the matter between the parties or recommendations that will be made to the appropriate University officials for further action.

8. The investigation of an informal complaint and the preparation of findings and recommendations by the Coordinator shall be completed as soon as reasonably possible given the circumstances.

9. The Coordinator will inform the University officials initially notified of the investigation (see § B.4) of the Coordinator's findings and any recommendations for corrective or disciplinary action. Any corrective or disciplinary action taken ~~must be consistent with the provisions of law, applicable University policies, and of the Faculty Code and be within the authority of the responsible University officials.~~

is within the discretion of the responsible University officials.

10. The responsible University Official ~~shall provide the parties with a notice of corrective or disciplinary action taken, if any, along with a copy of the Coordinator's findings and recommendations, if any.~~

will provide appropriate notice of the disposition of the investigation, consistent with the parties' roles, University policies, and applicable law.

See also Appendix B A. 2. concerning formal complaint filing following receipt of notification/information from the responsible University official of the findings and recommendations resulting from the informal complaint process.

Appendix B

FORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. INITIATION OF THE FORMAL COMPLAINT PROCESS

1. If either party to the informal complaint process is dissatisfied with the outcome of the informal complaint, he or she may file a formal complaint. information

2. A formal complaint must be filed within fifteen (15) business days after the receipt of ~~notification~~ from the responsible University official of the findings and recommendations resulting from the informal complaint process and of any corrective or disciplinary action taken based on the informal complaint process.

3. To initiate a formal complaint, the party must submit to the Coordinator a signed, written request to proceed with a formal complaint. The Coordinator will inform the requesting party of the specific complaint process that will be followed and provide a copy of the applicable procedures.

New Language: Appendix B A.4. has been added. See note 4

The Revised version substitutes the word special panel complaints for "complaints" and inserts the word "special" before panel from this point forward in the document.

B. ESTABLISHMENT OF PANELS

below

1. Complaints will be heard by a [↑]five-member panel selected by the Associate Vice President for Human Resources (or the designee of the Associate Vice President) as described in Section D from a pool of eighteen (18) panelists who will be appointed as follows:

(1) ~~(a)~~ Six (6) panelists will be appointed from the student body by the Vice President for Student and Academic Support Services;

(2) ~~(b) Six (6) panelists will be appointed from among the members of the Faculty Senate Dispute Resolution Committee by the Chair of the Dispute Resolution Committee after consultation with the Vice President for Academic Affairs; and~~

(2) Six (6) panelists will be appointed from the faculty by the Vice President for Academic Affairs in consultation with the Council of the Deans and the Faculty Senate Executive Committee.

(3) ~~(c)~~ Six (6) panelists will be appointed from the staff by the Vice President for Administrative and Information Services. *

* See B.4.

2. Each panelist will serve for a term of two (2) years. The appointing official should stagger the terms of appointment so that the terms of only three (3) of his or her appointees to the pool expire each year.

3. A panelist may be removed from the pool and replaced by another person at any time in the discretion of the appointing official. Vacancies in the pool of panelists should be promptly filled by the responsible appointing official.

Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations

4. Mandatory training will be provided for all appointees to the Formal Complaint pool at the time of appointment and, as needed, on an ongoing basis. Training will be conducted by the Assistant Vice President for Administrative and Information Services, the Dean of Students, and the Director of the Office of Equal Employment Activities, or their designees. Training shall include orientation in the roles and responsibilities of panel members, the complaint procedures, applicable policies, and other techniques and standards applicable to the complaint and hearing process.

C. INITIATION OF FORMAL COMPLAINT PANEL PROCEDURES

If a formal complaint is governed by the Special Panel complaint procedures

✓ The written request to proceed with a formal complaint filed with the Coordinator shall include the following:

- (1) (x) A request for a formal hearing;
- (2) (b) A statement explaining the reasons why the findings or recommendations of the Coordinator should be modified or overturned; and
- (3) (x) A statement of the relief requested.

D. SELECTION OF THE FORMAL COMPLAINT PANEL

1. When a formal complaint requiring a Formal Complaint Panel is received by the Coordinator, he or she shall forward the complaint to the Associate Vice President for Human Resources (or designee) who shall appoint the five-member panel on a rotating basis, as follows:

- (1) ~~(a)~~ Two (2) panelists from the status group of the Complainant (faculty, student, or staff member);
- (2) ~~(b)~~ Two (2) panelists from the status group of the Respondent (staff or faculty member); and
- (3) ~~(c)~~ One (1) panelist from the remaining status group.

2. The goal of the Formal Complaint Panel process is to complete the formal complaint procedures within forty-five (45) business days for of the receipt of the formal complaint request by the Coordinator. Therefore, the members of each Formal Complaint Panel should be designated and the Coordinator notified of their selection within five (5) business days.

3. As soon as the members of the Formal Complaint Panel have been designated, the Coordinator will notify both parties of the names of the panelists. ~~Any party to the dispute may disqualify one member of the Formal Complaint Panel by peremptory challenge. Any party may also seek to disqualify any member of the Formal Complaint Panel for cause. Within three (3) days of the receipt of the notice, a party shall submit any challenge(s) in writing to the Associate Vice President for Human Resources. The Associate Vice President may, in his or her discretion, replace a challenged panelist with another member~~ of the pool from the same status group. at

See note 5

4. A designated panelist who has a conflict of interest or is may otherwise unable to serve on a Formal Complaint Panel ~~shall~~ recuse himself or herself by notifying the Associate Vice President.

E. FORMAL COMPLAINT PANEL ORGANIZATION

1. Within five (5) business days after the appointment of the Formal Complaint Panel, the panel members shall select a chairperson and review the request for a hearing.

2. The Formal Complaint Panel may request clarification or additional information from the Coordinator or from the parties/* There shall be no ex parte communication between the members of the panel and either of the parties. s

*to assist in deciding whether to grant the request.

F. FORMAL COMPLAINT PANEL PROCEDURES - SUMMARY DECISION

1. The Formal Complaint Panel may issue a summary decision denying the request for a hearing and affirming the informal complaint process if the Formal Complaint Panel determines that the reasons presented for overturning or modifying the findings or recommendations of the Coordinator are without significant merit.

2. If the Formal Complaint Panel denies the request for a hearing, its decision will be in writing and include statements of reasons for denial of the request for a hearing. Copies of the Formal Complaint Panel's decision will be provided to the party who requested the hearing, the Coordinator, the official responsible for implementing corrective or disciplinary action, and the Associate Vice President for Human Resources.

3. Within ten (10) ^{the party who requested the hearing} ~~fifteen (15)~~ business days after receiving the summary decision of the Special Panel, ~~either party may~~ appeal the decision to the Associate Vice President for Human Resources. The appeal shall be in writing and shall set forth the reasons why the summary decision of the Formal Complaint Panel should be overturned.

4. The Associate Vice President for Human Resources shall review the record including the request for hearing, the summary decision of the Formal Complaint Panel, and the written appeal. If the Associate Vice President determines that the Formal Complaint Panel followed the guidelines for summary denial of the request for a hearing, he or she shall affirm the decision of the Formal Complaint Panel.

5. If the Associate Vice President determines that the summary decision of the Formal Complaint Panel was not made in accordance with the guidelines, he or she will appoint a new Formal Complaint Panel from the remaining members of the Formal Complaint Panel pool. The new Panel may issue a summary decision or proceed with the hearing process.

G. FORMAL COMPLAINT PANEL PROCEDURES - SCHEDULING ~~A~~
HEARING

forth

1. If the Formal Complaint Panel grants the request for a hearing, it will set the date and time for the hearing. If a new Formal Complaint Panel is appointed to conduct a hearing after a summary decision is overturned, the panelists will meet within a reasonable period of time, normally five (5) business days after their appointment, to select a chairperson and to set the date and time for a hearing. The hearing should be scheduled within a reasonable period of time, normally twenty (20) business days, after the Formal Complaint Panel is appointed.

2. The chairperson of the Formal Complaint Panel shall notify the parties of the date, time, and location of the hearing at least seven (7) business days prior to the hearing. Within ~~seventy-two (72) hours~~ two (2) business days after receiving notice of the hearing, a party with a scheduling conflict may submit a request to the chairperson for a postponement. The chairperson, after consulting the members of the Formal Complaint Panel, shall have the discretion to reschedule the hearing. All parties will be notified as soon as possible if the hearing is rescheduled.

thirty (30)

3. If one or more of the parties does not appear for the hearing within ~~sixty (60) minutes~~ after the scheduled time, the Formal Complaint Panel shall decide whether to reschedule the hearing or to proceed.

H. FORMAL COMPLAINT PANEL PROCEDURES - CONDUCT OF
HEARINGS

1. The chairperson of the Formal Complaint Panel shall preside over the hearing and make decisions on procedural issues. The hearing will be conducted in the following order:

(a) Preliminary Matters - the chairperson will introduce the parties and their counsel or advisors and the members of the Formal Complaint Panel; will review the order of proceedings and explain procedures governing the use of the tape recorder, and present a brief summary of the complaint.

(b) Opening Statements - the party requesting the hearing may make an opening statement. The responding party may then make an opening statement. Opening statements are limited to ~~thirty(30)~~ fifteen (15) minutes in length.

(c) Presentation of the Complaint - the party requesting the hearing may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the party and each witness, the ~~other~~ party will be permitted to ask questions. requesting the hearing
responding

(d) Response to the Complaint - the party responding to the complaint may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the responding party and each witness, the ~~other~~ party will be permitted to ask questions. requesting the hearing

(e) Closing Statements - the party requesting the hearing may make a closing statement. The responding party may then make a closing statement. Closing statements are limited to ~~thirty(30)~~ minutes in length. fifteen (15)

2. Members of the Formal Complaint Panel may ask questions of the parties or witnesses at any time during the hearing.

3. The hearing will not be conducted according to strict rules of evidence; however, the chairperson of the Formal Complaint Panel may limit or exclude irrelevant or repetitive testimony.

4. When the hearing is lengthy or when it cannot be completed in one session for any other reason, the chairperson of the Special Panel may continue the hearing to a date and time acceptable to the parties and the members of the Special Panel.

5. Each hearing will be electronically recorded on audiotape. A copy of the recording may be obtained by either party from the Coordinator at a reasonable cost upon written request.

~~6. The hearings shall be open to the public unless, on the motion of a party or the Formal Complaint Panel, the Panel shall determine that it is in the best interest of the University and the parties that the hearing be closed.~~

I. FORMAL COMPLAINT PANEL PROCEDURES - WITNESSES

ask

1. Each party may ~~request~~ witnesses to present testimony at the hearing and the Panel may ~~require the complainant to testify.~~ however, no person may be compelled to testify
three (3)

2. At least ~~five(5)~~ business days before the hearing, each party shall provide the Coordinator and the other party with a list of witnesses he or she intends to present at the hearing.

3. The Formal Complaint Panel may request the appearance of additional witnesses. The Coordinator will arrange for the appearance of these witnesses.

4. Each party is responsible for notifying their witnesses of the date, time, and place of the hearing. A hearing will not automatically be postponed because a witness fails to appear.

5. All witnesses will be excluded from the hearing both before and after their testimony. A witness may be recalled at the discretion of the Formal Complaint Panel chairperson.

obtain permission from

6. A University employee must ~~notify his or her supervisor of the need to be absent from work to appear at a hearing.~~ Employees will be paid while appearing at a hearing during working hours, but will not be paid for any other time spent on the complaint during or outside of working hours.

7. A student must obtain permission from his or her professor to be absent from class to appear at a hearing.

8 7. Supervisors and professors should be aware of the importance of hearings and not unreasonably withhold permission for appearance at a hearing. If an employee or student needs assistance in obtaining permission to appear at a hearing, he or she should contact the Coordinator.

J. FORMAL COMPLAINT PANEL PROCEDURES - ADVISORS

1. Each party may be accompanied by an advisor. The advisor may be an employee of the University, an attorney, or any other person selected by the party.

2. The advisor may not speak on behalf of the party, make an opening or closing statement, present testimony, or examine witnesses. In other words, the role of the advisor is limited to assisting the party in preparing for the hearing and providing private advice to the party during the hearing.

3. EXCEPTION: When one of the parties is a faculty member and, therefore, entitled to active representation under the Faculty Code, the other party will also be allowed to have active representation. This means that the attorney or other advisor selected by the party may speak on behalf of the party, make the opening and closing statements, and examine the witnesses.

⁴ 2. If either the Complainant or the Respondent plans to be accompanied by an attorney or other advisor at the hearing, the Coordinator and the other party must be notified at least five (5) business days prior to the hearing.

or the University may provide

⁵ 3. The Formal Complaint Panel may request that a University - furnished attorney or other advisor be present at any hearing to provide advice to the Formal Complaint Panel. ~~to~~

⁶ 4. The University may have an observer present at any hearing.

K. DECISION OF THE FORMAL COMPLAINT PANEL

1. After the hearing, the Formal Complaint Panel will meet in a closed session to review the hearing and make a decision on the complaint. The decision must be approved by a majority of the members of the Formal Complaint Panel.

2. The decision of the Formal Complaint Panel shall be in writing and set forth the panel's findings of fact and conclusions.

ten (10) business

3. The written decision of the Formal Complaint Panel shall be submitted to the Associate Vice President for Human Resources within ~~thirty (30) calendar~~ days after the conclusion of the hearing. The Associate Vice President will send a copy of the decision to both parties at their home addresses of record by courier, overnight mail, or certified mail (return receipt requested). in his or her discretion

12 KEY DIFFERENCES BETWEEN (1) THE INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS AS ENDORSED BY FACULTY SENATE RESOLUTION 98/5, ON DECEMBER 11, 1998, AND (2) THE "REVISED 4/14/99" INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT PREPARED BY THE UNIVERSITY ADMINISTRATION AND POSTED ON GWU WEBSITES

1. Removal of "reasonable person" test for hostile environment sexual harassment:

The Faculty Senate's interim policy and procedures, on page 1, provides that sexual harassment occurs when "(4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment to a reasonable person" (emphasis added).

The University Administration removed the phrase, "to a reasonable person," on page 1 of its interim policy and procedures as "Revised 4/14/99" (hereinafter the "4/14/99 Revision").

2. Removal of safe harbor for classroom discussion:

The Faculty Senate's interim policy and procedures, on page 1, excludes from the scope of the policy and procedures all course-related "discussion (unless such discussion involves unwelcome verbal conduct of a sexual nature that is persistent, pervasive, severe, and not germane to course content)".

The Administration removed this exclusion in its 4/14/99 Revision (see page 1), so that ALL course-related discussion would be potentially subject to the interim sexual harassment policy and procedures.

3. Prohibition against ALL "personal relationships" between supervisors and subordinates:

The Faculty Senate's interim policy and procedures, on page 2, paragraph 2, states that "[r]elationships that might be appropriate in other circumstances may be inappropriate when one of those involved must exercise professional judgment and responsibility over the other.... Individuals in supervisory or evaluative roles should be aware that any personal relationship explicitly or implicitly of a sexual nature with their subordinates, even when both parties have consented to it, risks possible formal action against them by the other participant or by a third party. It is the administrator, instructor, or other [supervisory] individual ... [who] will be held accountable" (emphasis added).

The Administration's 4/14/99 Revision, page 2, paragraph 2, replaces the words "may be" in the first quoted sentence with the word "are". The 4/14/99 Revision also removes the words "explicitly or implicitly of a sexual nature" in the second quoted

sentence, and replaces the word “risks” in that sentence with the word “makes”. The cumulative effect of these changes is to declare that (1) ALL “personal relationships” (including those of a non-sexual nature) between supervisors and subordinates are “inappropriate” and (2) any such relationship “makes possible formal action” against the supervisor who is involved.

4. Removal of requirement that the Office of the Vice President and General Counsel must interpret the interim policy and procedures in accordance with law, applicable University policies, and the Faculty Code:

The Faculty Senate’s interim policy and procedures, on page 3, paragraph 10, provide that “[a]ll questions regarding interpretation of this policy, the procedures for the informal complaint process, or the procedures for formal complaints shall be resolved” by the Office of the Vice President and General Counsel.” In addition, the interpretations of the policy and procedures by the Office of the Vice President and General Counsel (“OGC”) “shall be subject to the provisions of law, applicable University policies, and of the Faculty Code.”

The Administration’s 4/14/99 Revision, on page 3, paragraph 10, removes the requirement that the OGC’s interpretations must conform to law, applicable University policies, and the Faculty Code.

5. Removal of requirements that any sanctions imposed after an informal complaint process or formal complaint process must be consistent with provisions of law, applicable University policies, and the Faculty Code:

The Faculty Senate’s interim policy and procedures provide, on page 3, paragraph 8, that the “imposition of corrective action or sanctions” by a University official, based on a finding of sexual harassment, is “subject to the provisions of law, of applicable University policies, and of the Faculty Code.” Appendix A (Informal Complaint Process), on page 6, paragraph B.9., similarly provides that any corrective or disciplinary action taken by University officials based on an informal complaint process “must be consistent with the provisions of law, applicable University policies, and of the Faculty Code and be within the authority of the responsible University officials.” The same requirement appears in Appendix B (Formal Complaint Process), on page 15, paragraph L.4., with respect to corrective or disciplinary action taken by University officials based on a formal complaint process.

The Administration’s 4/14/99 Revision removes the foregoing requirements. The 4/14/99 Revision, on page 3, paragraph 8, refers only to those provisions of the Faculty Code that govern tenure revocation proceedings. In two other places, the 4/14/99 Revision permits University officials to use their “discretion” in taking corrective or disciplinary action. See Appendix A, page 5, paragraph B.9., and Appendix B, page 14, paragraph L.5.

6. Weakening of requirements that the University will provide notice of the results of informal complaints and formal complaints to the parties:

Appendix A of the Faculty Senate's interim policy and procedures, on page 6, paragraph B.10., requires that, following the completion of an informal complaint process, "[t]he responsible University Official shall provide the parties with a notice of corrective or disciplinary action taken, if any, along with a copy of the Coordinator's findings and recommendations, if any." A similar requirement of notification to both parties applies to written decisions of formal complaint panels, under Appendix B, page 14, paragraph K.3.

The Administration's 4/14/99 Revision substantially weakens these notice requirements. Appendix A, page 5, paragraph B.10, only requires the responsible University official to "provide appropriate notice of the disposition of the investigation, consistent with the parties' roles, University policies, and applicable law" (emphasis added). Appendix B, page 13, paragraph K.3, allows the responsible University official to use "his or her discretion" in deciding whether to send the written decision of a formal complaint panel to the parties. In addition, even if the University official chooses to send a formal complaint panel's decision to the parties, the official "may omit portions to maintain consistency with University policies regarding confidentiality of information" (see same paragraph).

7. Removal of requirement that the Chair of the Dispute Resolution Committee is responsible for appointing the pool of faculty members eligible to serve on formal complaint panels, and that such faculty members must be members of the Dispute Resolution Committee:

Appendix B of the Faculty Senate's interim policy and procedures, on page 7, paragraph B.1.(b) provides that the six faculty members eligible to serve on formal complaint panels "will be appointed from among the members of the Faculty Senate Dispute Resolution Committee by the Chair of the Dispute Resolution Committee after consultation with the Vice President for Academic Affairs." Under Part E.2. of the Procedures for Implementation of the Faculty Code, the Faculty Senate is responsible for electing 15 tenured, active-status faculty members to the Dispute Resolution Committee and for designating one of those faculty members as the Chair of the Dispute Resolution Committee.

The Administration's 4/14/99 Revision, Appendix B, page 7, paragraph B.1.(2), provides, instead, that the six faculty members eligible for appointment to the formal complaint panels "will be appointed from among the faculty by the Vice President for Academic Affairs in consultation with the Council of Deans and the Faculty Senate Executive Committee" (emphasis added).

8. Substantial changes in provisions regarding removal of members of formal complaint panels:

Appendix B of the Faculty Senate's interim policy and procedures, page 9, paragraph D.3., provides that members of the formal complaint panel can be removed for any of the following reasons: (1) each party may disqualify one member of the panel by filing a peremptory challenge; (2) each party may seek to disqualify a member of the panel for cause, subject to the discretionary decision of the Associate Vice President for Human Resources; and (3) any member of the panel who has a conflict of interest "shall recuse himself or herself".

The Administration's 4/14/99 Revision, Appendix B, page 8, paragraph D.3., removes any right to file a peremptory challenge. In addition, it provides that a panel member with a conflict of interest "may recuse himself or herself" but is not required to do so.

9. Limitation of right of appeal from a summary decision of the formal complaint panel:

Appendix B of the Faculty Senate's interim policy and procedures, page 10, paragraph F.1., provides that "[t]he Formal Complaint Panel can issue a summary decision denying the request for a hearing and affirming the informal complaint process if the Formal Complaint Panel determines that the reasons presented for overturning or modifying the findings or recommendations of the Coordinator are without significant merit." Paragraph F.3., also on page 10, provides that "either party may appeal the decision to the Associate Vice President for Human Resources" (emphasis added).

The Administration's 4/14/99 Revision, Appendix B, page 9, paragraph F.3., provides that only "the party who requested the hearing" may appeal a summary decision of the formal complaint panel. Thus, the party who did not request the hearing would have no right of appeal.

10. Removal of presumption in favor of a public hearing:

Appendix B of the Faculty Senate's interim policy and procedures, page 12, paragraph H.6., provides that the hearings of a formal complaint panel "shall be open to the public unless, on the motion of a party or the Formal Complaint Panel, the Panel shall determine that it is in the best interest of the University and the parties that the hearing be closed."

The foregoing provision is deleted in the Administration's 4/14/99 Revision (see Appendix B, page 11).

11. Removal of the Formal Complaint Panel's power to require the complainant to testify:

Appendix B of the Faculty Senate's interim policy and procedures, page 13, paragraph 1, provides that "the [Formal Complaint] Panel may require the complainant to testify."

The Administration's 4/14/99 Revision, Appendix B, page 11, paragraph I.1., instead provides that "no person may be compelled to testify."

12. Potential limitations on the availability of witnesses:

Appendix B, of the Faculty Senate's interim policy and procedures, page 13, paragraph 1, allows each party to "request witnesses to present testimony." Appendix B, page 13, paragraph 6, states that a University employee "must notify his or her supervisor of the need to be absent from work to appear at a hearing" (emphasis added). Thus, the employee is not required to obtain the supervisor's permission in order to appear to present testimony at a hearing. Similarly, student witnesses are not required to obtain their professors' permission to miss class so that they can appear to present testimony at a hearing.

In contrast, the Administration's 4/14/99 Revision provides that a University employee "must obtain permission from his or her supervisor to be absent from work to appear at a hearing", and a student similarly "must obtain permission from his or her professor to be absent from class to appear at a hearing" (emphasis added). Appendix B, pages 11-12, paragraphs 6-7. The 4/14/99 Revision does not require that such permission be granted, although it states that "[s]upervisors and professors should be aware of the importance of hearings and not unreasonably withhold permission for appearing at a hearing." Id., page 12, paragraph 8. The 4/14/99 Revision does not provide for postponement or adjournment of a hearing in a case where a supervisor or a professor refuses to grant permission for a University employee or student to appear and present testimony at that hearing.

Faculty Senate Resolution 98/5, adopted, as amended, on December 11, 1998, [marked to show proposed amendments to be considered as part of Faculty Senate Resolution 04/3 on November 12, 2004]

INTERIM POLICY AND PROCEDURES GOVERNING SEXUAL HARASSMENT COMPLAINTS

Introduction

The George Washington University reaffirms its commitment to maintaining a positive climate for study and work in which individuals are judged solely on relevant factors, such as ability and performance, and are free to pursue their academic and work activities in an atmosphere that is free from coercion and intimidation. Sexual harassment is inimical to such an atmosphere and will not be tolerated.

Sexual Harassment Policy and Procedures

1. The University has adopted a definition of sexual harassment that will be applied in determining whether or not particular conduct constitutes sexual harassment. This definition parallels Section 1604.11 of the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex. Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made explicitly or implicitly a term or condition of academic evaluation, advancement, or employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for decisions relating to evaluation of the academic performance or employment of the individual, (3) such conduct has the purpose or effect of substantially interfering with an individual's academic or work performance or limiting participation in University programs, or (4) the intent or effect of such conduct is to create an intimidating, hostile, or offensive academic or work environment to a reasonable person.

This policy acknowledges that conduct that has the effect of sexual harassment may occur without regard to the gender of either party.

In accordance with the statement on academic freedom as outlined in the Faculty Code, course content, discussion (unless such discussion involves unwelcome verbal conduct of a sexual nature that is persistent, pervasive, severe, and not germane to course content), emphasis, textbooks and other assigned materials are specifically exempted from coverage. The sexual harassment policy refers to personal conduct.

Violation of this policy may lead to disciplinary action up to and including expulsion or termination.

2. Relationships that might be appropriate in other circumstances may be inappropriate when one of those involved must exercise professional judgment and responsibility over the other. This constraint applies to faculty members, employees, graduate students, and any other members of the University community in supervisory or evaluative roles.

Individuals in supervisory or evaluative roles should be aware that any personal relationship explicitly or implicitly of a sexual nature with their subordinates, even when both parties have consented to it, risks possible formal action against them by the other participant or by a third party. It is the administrator, instructor, or other individual responsible for the evaluation of the work product of the other participant in the relationship who, by virtue of that special responsibility, will be held accountable.

3. Retaliation against a person who complains of sexual harassment is prohibited. Allegations of retaliation, by the person accused of sexual harassment or by any other person, will be investigated and may result in disciplinary action.

4. A person making capricious or frivolous allegations of sexual harassment may be subject to disciplinary action.

5. A member of the University community who believes that behavior of a sexual nature in the academic or work environment may be inappropriate may initiate a confidential consultation by contacting the Office of the Vice President and General Counsel (994-6503). That Office will assign a Coordinator and arrange a consultation. Consistent with the procedures set forth in Appendix A, Section A, Confidential Consultation, the Coordinator will make sure that the individual has a copy of the sexual harassment policies and procedures, respond to any questions about them, and assist the individual in developing strategies to deal with the situation. A member of the University community who believes that behavior of a sexual nature in the academic or work environment may be inappropriate may also discuss the issue with the Director of the Office of Equal Employment Activities, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations. Those individuals will refer such matters to the Coordinator.

6. If the individual or the University wishes to file an informal complaint, the procedure set forth in Appendix A, Section B, Informal Complaint, will be followed.

7. If the allegations of sexual harassment are not satisfactorily resolved through the informal complaint process, a formal complaint may be filed. A formal complaint may be initiated by the person making the allegations or the person against whom the allegations have been made, or by the University. The procedures for the formal complaint process are set forth in Appendix B, Formal Complaint Process-Sexual Harassment.

8. If the informal complaint process or the formal complaint process results in a determination that sexual harassment has occurred, the findings and recommendations shall be referred to the appropriate University official for imposition of corrective action or sanctions. Possible sanctions may include, but are not limited to, oral warning, suspension, expulsion, or termination of employment subject to the provisions of law, of applicable University policies, and of the Faculty Code.

9. These procedures are intended to encourage resolution of a complaint of sexual harassment at the earliest possible stage. At the same time, where such resolution is not possible, these procedures provide for a more formal review of the situation by individuals not party to the case, and a final decision based upon that review. In providing these procedures, it is the intention of the University to carry them out in an equitable and timely manner. However, in extenuating circumstances, it may not be possible to adhere to established time frames, and extension of time shall not be construed as failure to follow established procedures.

10. All questions regarding interpretation of this policy, the procedures for the informal complaint process, or the procedures for formal complaints shall be resolved by the Office of the Vice President and General Counsel. The interpretation of the Office of the Vice President and General Counsel shall be subject to the provisions of law, applicable University policies, and of the Faculty Code.

Appendix A

INFORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. CONFIDENTIAL CONSULTATION

1. A member of the University community who is uncomfortable with a situation or behavior of a sexual nature which may be inappropriate (even though the person is not sure whether the conduct constitutes sexual harassment) may initiate a confidential consultation to discuss the matter. The individual should contact the Office of the Vice President and General Counsel (994-6503). The Office will assign a Coordinator and arrange an appointment for the consultation. An individual may also discuss the issue with the Director of the Office of Equal Employment Activities, the Dean of Students, or the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, who will refer the matter to the Coordinator.

2. The confidential consultation consists of one or more meetings between the Coordinator and the individual requesting the consultation. The Coordinator will make sure that the individual has received a copy of the policies and procedures governing sexual harassment complaints and will respond to any questions about the policies and procedures.

3. Unless the University or the individual requesting the consultation decides to pursue

an informal complaint, the consultation and the identity of the individual will remain confidential, to the extent practicable, and no other parties or University officials will be informed. A record of the consultation prepared by the Coordinator will be maintained by the Office of the Vice President and General Counsel, and kept confidential to the extent practicable.

4. The Coordinator will take action based on the consultation, including, but not limited to, clarifying and resolving the matter with the individual, pursuing an investigation and continuing the informal complaint process, recommending counseling or other assistance or alternative action, or determining that no action is necessary.

5. When the Coordinator has reason to conclude that criminal conduct may have occurred or that it is necessary to protect the health or safety of any individual, the University may refer the matter to the appropriate authorities. A determination will be made by the Office of the Vice President and General Counsel.

6. While there are no specific time limits for requesting a confidential consultation or pursuing an informal complaint, persons who believe that they have been subject or are being subjected to sexual harassment are encouraged to seek assistance from the University through these procedures as soon as possible.

B. INFORMAL COMPLAINT PROCESS

1. If the University or the person requesting the confidential consultation decides to pursue an informal complaint, the Coordinator will conduct an investigation.

2. The Coordinator will request that the person alleging harassment (the "Complainant") provide an account of the facts and circumstances of the alleged harassment. The Coordinator may request a signed statement from the Complainant and may assist the Complainant with the preparation of the signed statement. The Coordinator will then conduct an investigation of the complaint, including notice to the person accused of harassment (the "Respondent").

3. If the Complainant declines to prepare a written statement, the Coordinator will prepare a written summary of the complaint based on the confidential consultation and conduct an investigation of the allegations.

4. Upon initiating an investigation, the Coordinator may inform the appropriate University officials—who would be charged with recommending or implementing any corrective or disciplinary action, of the informal complaint and that an investigation of the allegations is being conducted.

5. The process and scope of the investigation are at the discretion of the Coordinator.

6. Absolute confidentiality is rarely possible. However, the Coordinator will maintain confidentiality to the extent practicable and will advise the parties and all persons interviewed during the investigation (or notified of the investigation) of the need for

discretion and confidentiality. Disregard for confidentiality may subject an individual to disciplinary action.

7. Upon concluding the investigation, the Coordinator will inform the Complainant and the person accused of harassment and the Respondent of his or her findings and any recommendations for resolving the matter between the parties or recommendations that will be made to the appropriate University officials for further action.

8. The investigation of an informal complaint and the preparation of findings and recommendations by the Coordinator shall be completed as soon as reasonably possible given the circumstances.

9. The Coordinator will inform the University officials initially notified of the investigation (see § B.4) of the Coordinator's findings and any recommendations for corrective or disciplinary action. Any corrective or disciplinary action taken must be consistent with the provisions of law, applicable University policies, and the Faculty Code and be within the authority of the responsible University officials.

10. The responsible University Official shall provide the parties with a notice of corrective or disciplinary action taken, if any, along with a copy of the Coordinator's findings and recommendations, if any.

Appendix B

FORMAL COMPLAINT PROCESS - SEXUAL HARASSMENT

A. INITIATION OF THE FORMAL COMPLAINT PROCESS

1. If either party to the informal complaint process is dissatisfied with the outcome of the informal complaint, he or she may file a formal complaint.

2. A formal complaint must be filed within fifteen (15) business days after the receipt of notification from the responsible University official of the findings and recommendations resulting from the informal complaint process and of any corrective or disciplinary action taken based on the informal complaint process.

3. To initiate a formal complaint, the party must submit to the Coordinator a signed, written request to proceed with a formal complaint. The Coordinator will inform the requesting party of the specific complaint process that will be followed and provide a copy of the applicable procedures.

4. The specific formal complaint process that will be used depends on the status of the parties, as follows:

a. The Code of Student Conduct will govern the formal complaint process when both parties are students or when the Respondent is a student or a student organization, regardless of the status of the Complainant.

b. The Manual of Personnel Policies will govern the formal complaint process when both parties are staff members.

c. In the following circumstances, the formal complaint will be heard by a Formal Complaint Panel in accordance with the panel hearing procedures set forth below:

(i) When the Complainant is a student and the Respondent is a faculty member or a staff member;

(ii) When the Complainant is a faculty member and the Respondent is a staff member;

(iii) When the Complainant is a staff member and the Respondent is a faculty member; or

(iv) When the Complainant and the Respondent are both faculty members.

B. ESTABLISHMENT OF PANELS

~~1. Complaints will be heard by a five member panel selected by the Associate Vice President for Human Resources (or the designee of the Associate Vice President) as described in Section D from a pool of eighteen (18) panelists who will be appointed as follows:~~

1. Formal complaints of the types designated in § A.4.c. above will be heard by a five-member Formal Complaint Panel selected by the Associate Vice President for Human Resources (or the designee of the Associate Vice President) as described in Section D from a pool of eighteen (18) panelists who will be appointed as follows:

(a) Six (6) panelists will be appointed from the student body by the Senior Vice President for Student and Academic Support Services;

(b) Six (6) panelists will be appointed from among the members of the Faculty Senate Dispute Resolution Committee by the Chair of the Dispute Resolution Committee after consultation with the Executive Vice President for Academic Affairs; and

(c) Six (6) panelists will be appointed from the staff by the Vice President for Administrative and Information Services.

2. Each panelist will serve for a term of two (2) years. The appointing official should stagger the terms of appointment so that the terms of only three (3) of his or her appointees to the pool expire each year.

3. A panelist may be removed from the pool and replaced by another person at any time in the discretion of the appointing official. Vacancies in the pool of panelists should be promptly filled by the responsible appointing official.

4. Mandatory training will be provided for all appointees to the Formal Complaint Panel pool at the time of appointment and, as needed, on an ongoing basis. Training will be conducted by the Assistant Vice President in the Office of Faculty Recruitment and Personnel Relations, the Dean of Students, and the Director of the Office of Equal Employment Activities, or their designees. Training shall include orientation in the roles and responsibilities of panel members, the complaint procedures, applicable policies, and other techniques and standards applicable to the complaint and hearing process.

C. INITIATION OF FORMAL COMPLAINT PANEL PROCEDURES

1. The written request to proceed with a formal complaint of a type designated in § A.4.c. above shall be filed with the Coordinator and shall include the following:

- (a) A request for a formal hearing;
- (b) A statement explaining the reasons why the findings or recommendations of the Coordinator should be modified or overturned; and
- (c) A statement of the relief requested.

D. SELECTION OF THE FORMAL COMPLAINT PANEL

1. When a formal complaint requiring a Formal Complaint Panel is received by the Coordinator, he or she shall forward the complaint to the Associate Vice President for Human Resources (or designee) who shall appoint the five-member panel on a rotating basis, as follows:

- (a) Two (2) panelists from the status group of the Complainant (faculty, student, or staff member);
- (b) Two (2) panelists from the status group of the Respondent (staff or faculty member); and
- (c) One (1) panelist from the remaining status group.

2. The goal of the Formal Complaint Panel process is to complete the formal complaint procedures within forty-five (45) business days of the receipt of the formal complaint request by the Coordinator. Therefore, the members of each Formal Complaint Panel should be designated and the Coordinator notified of their selection within five (5) business days.

3. As soon as the members of the Formal Complaint Panel have been designated, the Coordinator will notify both parties of the names of the panelists. Any party to the dispute may disqualify one member of the Formal Complaint Panel by peremptory challenge. Any party may also seek to disqualify any member of the Formal Complaint Panel for cause. Within three (3) days of the receipt of the notice, a party shall submit any challenge(s) in writing to the Associate Vice_President for Human Resources. The Associate Vice

President may, in his or her discretion, replace a challenged panelist with another member of the pool from the same status group.

4. A designated panelist who has a conflict of interest or is otherwise unable to serve on a Formal Complaint Panel shall recuse himself or herself by notifying the Associate Vice President.

E. FORMAL COMPLAINT PANEL ORGANIZATION

1. Within five (5) business days after the appointment of the Formal Complaint Panel, the panel members shall select a chairperson and review the request for a hearing.
2. The Formal Complaint Panel may request clarification or additional information from the Coordinator or from the parties. There shall be no ex parte communication between the members of the panel and either of the parties.

F. FORMAL COMPLAINT PANEL PROCEDURES - SUMMARY DECISION

1. The Formal Complaint Panel may issue a summary decision denying the request for a hearing and affirming the informal complaint process if the Formal Complaint Panel determines that the reasons presented for overturning or modifying the findings or recommendations of the Coordinator are without significant merit.
2. If the Formal Complaint Panel denies the request for a hearing, its decision will be in writing and include statements of reasons for denial of the request for a hearing. Copies of the Formal Complaint Panel's decision will be provided to the party who requested the hearing, the Coordinator, the official responsible for implementing corrective or disciplinary action, and the Associate Vice President for Human Resources.
3. Within fifteen (15) business days after receiving the summary decision of the Special Formal Complaint Panel, either party may appeal the decision to the Associate Vice President for Human Resources. The appeal shall be in writing and shall set forth the reasons why the summary decision of the Formal Complaint Panel should be overturned.
4. The Associate Vice President for Human Resources shall review the record including the request for hearing, the summary decision of the Formal Complaint Panel, and the written appeal. If the Associate Vice President determines that the Formal Complaint Panel followed the guidelines for summary denial of the request for a hearing, he or she shall affirm the decision of the Formal Complaint Panel.
5. If the Associate Vice President determines that the summary decision of the Formal Complaint Panel was not made in accordance with the guidelines, he or she will appoint a new Formal Complaint Panel from the remaining members of the Formal Complaint Panel pool. The new Panel may issue a summary decision or proceed with the hearing process.

G. FORMAL COMPLAINT PANEL PROCEDURES - SCHEDULING A HEARING

1. If the Formal Complaint Panel grants the request for a hearing, it will set the date and time for the hearing. If a new Formal Complaint Panel is appointed to conduct a hearing after a summary decision is overturned, the panelists will meet within a reasonable period of time, normally five (5) business days after their appointment, to select a chairperson and to set the date and time for a hearing. The hearing should be scheduled within a reasonable period of time, normally twenty (20) business days, after the Formal Complaint Panel is appointed.
2. The chairperson of the Formal Complaint Panel shall notify the parties of the date, time, and location of the hearing at least seven (7) business days prior to the hearing. Within seventy-two (72) hours after receiving notice of the hearing, a party with a scheduling conflict may submit a request to the chairperson for a postponement. The chairperson, after consulting the members of the Formal Complaint Panel, shall have the discretion to reschedule the hearing. All parties will be notified as soon as possible if the hearing is rescheduled.
3. If one or more of the parties does not appear for the hearing within sixty (60) minutes after the scheduled time, the Formal Complaint Panel shall decide whether to reschedule the hearing or to proceed.

H. FORMAL COMPLAINT PANEL PROCEDURES - CONDUCT OF HEARINGS

1. The chairperson of the Formal Complaint Panel shall preside over the hearing and make decisions on procedural issues. The hearing will be conducted in the following order:
 - (a) Preliminary Matters - the chairperson will introduce the parties and their counsel or advisors and the members of the Formal Complaint Panel; will review the order of proceedings and explain procedures governing the use of the tape recorder, and present a brief summary of the complaint.
 - (b) Opening Statements - the party requesting the hearing may make an opening statement. The responding party may then make an opening statement. Opening statements are limited to thirty (30) minutes in length.
 - (c) ~~Presentation of the Complaint~~ Presentation by the Party Requesting the Hearing - the party requesting the hearing may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the party and each witness, the other party will be permitted to ask questions.
 - (d) ~~Response to the Complaint~~ Presentation by the Responding Party - the party responding to the request for hearing may present testimony, provide documents or other evidence to the Panel, and present witnesses. Following the testimony of the party and each witness, the other party will be permitted to ask questions.
 - (e) Closing Statements - the party requesting the hearing may make a closing statement. The responding party may then make a closing statement. Closing statements

are limited to thirty (30) minutes in length.

2. Members of the Formal Complaint Panel may ask questions of the parties or witnesses at any time during the hearing.

3. The hearing will not be conducted according to strict rules of evidence; however, the chairperson of the Formal Complaint Panel may limit or exclude irrelevant or repetitive testimony.

4. When the hearing is lengthy or when it cannot be completed in one session for any other reason, the chairperson of the Special Formal Complaint Panel may continue the hearing to a date and time acceptable to the parties and the members of the Special Formal Complaint Panel.

5. Each hearing will be electronically recorded on audiotape. A copy of the recording may be obtained by either party from the Coordinator at a reasonable cost upon written request.

6. The hearings shall be open to the public unless, ~~on the motion of a party or the Formal Complaint Panel, the Panel shall determine~~ either party requests that the hearing be closed or the Formal Complaint Panel determines that it is in the best interest of the University and the parties that the hearing be closed.

I. FORMAL COMPLAINT PANEL PROCEDURES - WITNESSES

1. Each party may request witnesses to present testimony at the hearing and the Formal Complaint Panel may require the complainant to testify.

2. At least five (5) business days before the hearing, each party shall provide the Coordinator, the chairperson of the Formal Complaint Panel and the other party with a list of witnesses he or she intends to present at the hearing.

3. The Formal Complaint Panel may request the appearance of additional witnesses. The Coordinator will arrange for the appearance of these witnesses.

4. Each party is responsible for notifying their witnesses of the date, time, and place of the hearing. A hearing will not automatically be postponed because a witness fails to appear.

5. All witnesses will be excluded from the hearing both before and after their testimony. A witness may be recalled at the discretion of the Formal Complaint Panel chairperson.

6. A University employee must notify his or her supervisor of the need to be absent from work to appear at a hearing. Employees will be paid while appearing at a hearing during working hours, but will not be paid for any other time spent on the complaint during or outside of working hours.

7. Supervisors and professors should be aware of the importance of hearings and not

unreasonably withhold permission for appearance at a hearing. If an employee or student needs assistance in obtaining permission to appear at a hearing, he or she should contact the Coordinator.

J. FORMAL COMPLAINT PANEL PROCEDURES - ADVISORS

1. Each party may be accompanied by an advisor. The advisor may be an employee of the University, an attorney, or any other person selected by the party.
2. If either the Complainant or the Respondent plans to be accompanied by an attorney or other advisor at the hearing, the Coordinator, the chairperson of the Formal Complaint Panel and the other party must be notified at least five (5) business days prior to the hearing.
3. The Formal Complaint Panel may request that a University furnished attorney or other advisor be present at any hearing to provide advice to the Formal Complaint Panel.
4. The University may have an observer present at any hearing.

K. DECISION OF THE FORMAL COMPLAINT PANEL

1. After the hearing, the Formal Complaint Panel will meet in a closed session to review the hearing and make a decision on the complaint. The decision must be approved by a majority of the members of the Formal Complaint Panel.
2. The decision of the Formal Complaint Panel shall be in writing and set forth the panel's findings of fact and conclusions.
3. The written decision of the Formal Complaint Panel shall be submitted to the Associate Vice President for Human Resources within thirty (30) calendar days after the conclusion of the hearing. The Associate Vice President will send a copy of the decision to both parties at their home addresses of record by courier, overnight mail, or certified mail (return receipt requested).
4. If it is the decision of the Formal Complaint Panel that sexual harassment did occur, the Associate Vice President for Human Resources shall forward a copy of the written decision to the University official responsible for recommending or implementing corrective or disciplinary action.

L. APPEAL OF THE DECISION OF THE FORMAL COMPLAINT PANEL

1. A party who is dissatisfied with the decision of the Formal Complaint Panel may file an appeal with the Executive Vice President for Academic Affairs. The appeal must be in writing and set forth the reasons why the decision of the Formal Complaint Panel should be modified or overturned. The appeal must be based on the hearing record and may not present new evidence or testimony.

2. An appeal must be filed within fifteen (15) business days of the receipt of the decision of the Formal Complaint Panel. If an appeal is not received by the deadline, the decision of the Formal Complaint Panel will be the final University decision on the complaint.

3. Efforts will be made by the Executive Vice President for Academic Affairs to issue a final decision on the appeal within twenty (20) business days. The decision of the Executive Vice President for Academic Affairs shall be the final University decision on the complaint.

4. When the decision of the Formal Complaint Panel is final, or when the final decision on appeal is issued, the Coordinator will provide a copy of the final decision to the University official(s) responsible for implementing corrective or disciplinary action. Any corrective or disciplinary action taken by the responsible University official shall be subject to the provisions of law, of applicable University policies, and of the Faculty Code, and be within the authority of the responsible University official.